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THE

JUDICIAL AND CIVIL HISTORY

OF

NEW JERSEY

BY JOHN WHITEHEAD

MEMBER OF THE NEW JERSEY BAR

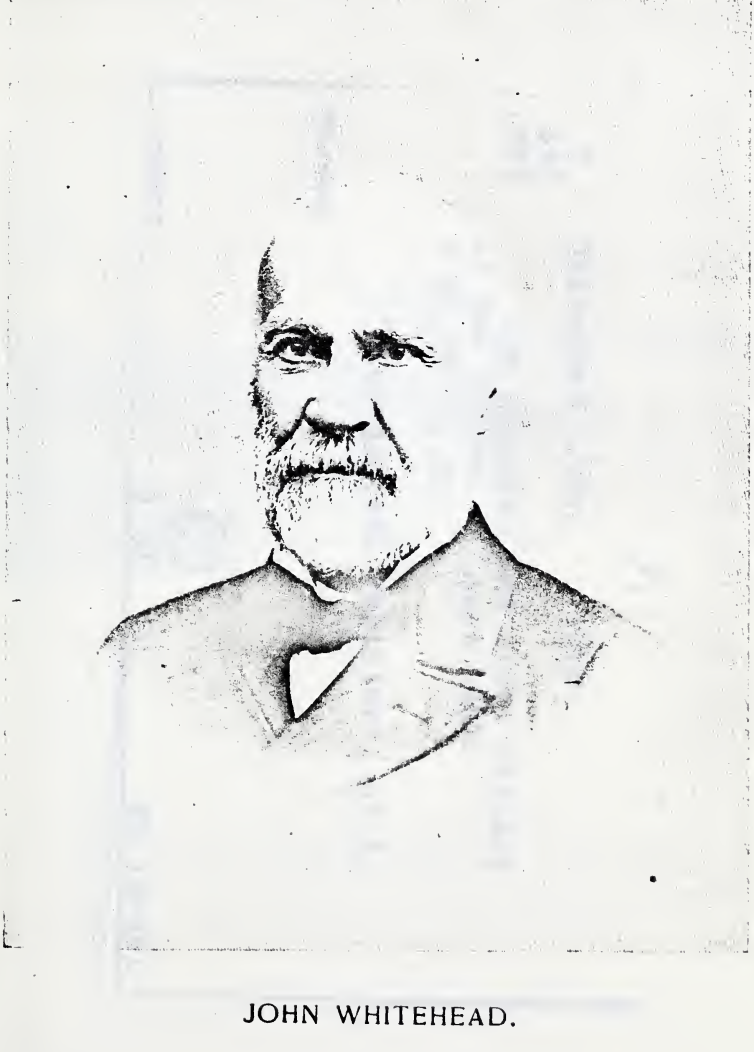
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ERRATA.

Page 2, line 7 from bottom; the name "Just." is sometimes found written "Juet," and he is also described as "clerk," as well as "mate."
Page 2, line 5 from bottom, for "were" read "was."
Page 13, line 11 from bottom, for "1633–34," read "1663–64."
Page 28, line 7 from bottom, for "joint" read "Lieut."
Page 94, line 7 from bottom, for "1665" read "1655."
Page 99, line 21, for "grantors" read "grantees."
Page 100, line 12 from bottom, for "West" read "East."
Page 111, line 20, dele letter "s" in word "patents."

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To my brethren of the Bar of New Jersey, I dedicate this work, begun with distrust, continued under multiplied obstacles and completed with a consciousness of its many defects.

JOHN WHITEHEAD.

Morristown, N. J.
June, 1897.

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THE JUDICIAL AND CIVIL HISTORY

OF

NEW JERSEY.

CHAPTER I.

First Discovery; Sebastian Cabot; John Verrazzano; Stephen Gomez; Henry Hudson; Just's Journal; Hudson's Explorations in Newark Bay and Hudson River; Claims to the Country by the English and Dutch Settlers in New Jersey; Bergen County Settled by Hollanders; Dutch Names of Families; Grant to Sir Edmund Ployden; Dutch Settlements in Southern New Jersey; Grants of Land in New Jersey to Hollanders; Swedish Occupation of Southern New Jersey.

It is extremely difficult to determine who was the first European to put his foot upon the soil of New Jersey. Six years after the discovery of America by Christopher Columbus, Sebastian Cabot, a Venetian sailor, but then in the service of Henry VII, the king of England, coasted along the eastern shore of the North American continent, in the latitude of New Jersey. Whether he explored any part of the land along which he sailed until he reached the vicinity of New York Bay, or whether he went on shore at all, does not appear. He had, prior to that time, visited Labrador, discovered New Foundland, and had sailed southward as far, it is believed, as Cape Florida, but he made no settlement; he made occasional landings, but exactly where cannot be determined, and he took possession of the country in the name of the English king.

Five years later John Verrazzano, sailing in a French ship, in the service of Francis I, king of France, visited the same part of the continent. He made a landing, the exact location of which cannot now be ascertained, and reported of his voyage, somewhat in detail, to his

royal master, the French king; among other matters, sending him an account of this visit to the shore. He did not, however, give any landmark to aid in the discovery of the precise spot where he landed, except that he spoke of steep hills; of a river; and told how the tide rose eight feet in this river. He also wrote of some inhabitants he saw there, described their clothing, and praised their friendly manner and hospitality. Verrazzano's description is so very vague and uncertain that no dependence can be placed upon it for the purpose of ascertaining whether the spot he thus visited was in New Jersey. It is, in fact, very doubtful whether it was.

In 1524 Stephen Gomez, a Spaniard, sailing in a Spanish vessel, reached the same shores. He was engaged about a year in this enterprise, but it is nowhere recorded that he accomplished anything more than simply sailing along the eastern coast of America.

No settlement was made by either of these navigators, nor was there any attempt to discover the resources of the country. Nearly a century elapsed before any further efforts were made, even to explore this new continent.

In 1609 Henry Hudson, an Englishman and an experienced sailor, then in the service of the Dutch East India Company, sailed from Europe towards the west with the expectation that he could pass through America and thus reach the Indies. Late in the month of August he entered Delaware Bay, but did not proceed far in that direction, as he found that body of water difficult to navigate. He left the bay, therefore, and directed his course northward, along the eastern coast of New Jersey and, on the 3d of September, in the afternoon of a Thursday, dropped anchor near Sandy Hook. He spent a few days after his arrival in exploring the country and made his way a short distance into what is now a part of Monmouth county. There can be no doubt that this is the locality he reached. A journal of the voyage has been published in the printed proceedings of the New York Historical Society which fully establishes this fact. This journal was kept by Hudson's mate, a man named Just. He then seemed to have directed his attention to another part of New Jersey, where he encountered some opposition from the natives. A boat load of his men were intercepted, as they returned to the ship, by two canoes, one having twelve and the other fourteen men on board. In the encounter which ensued, a seaman named Coleman was shot in the neck by an arrow, and was killed, and another sailor was wounded. The treatment which his men

received on this second exploring visit was so entirely different from that extended by the aborigines on his first, that curiosity is excited to learn the reason of the change. At the first visit they were received with all kindness, gifts were offered to them; what in Just's journal was called "green tobacco" and "dried currants," probably preserved whortleberries, were among these gifts. No reason is given in the account for the change and, at this late day, none can be learned.

There is no doubt from the description given in the journal, that this second visit of Hudson's men was made somewhere in the neighborhood of the strait dividing Long Island from Staten Island, and now called the "*Narrows.*" It is almost certain that they reached Newark Bay. Just says in his journal that they arrived at "a narrow river to the westward between two islands, *so they went in two leagues and saw an open sea and returned.*" The "narrow river to the westward" may have been, in all probability was, the Kills, and the "open sea" Newark Bay.

Hudson abandoned any further exploration of the country and proceeded up the river, to which his name was given. He sailed, undoubtedly, as far as the spot now occupied by the city of Hudson and anchoring his vessel there, sent a boat and some sailors to what is now Albany. He reached Hudson some time between the 12th of September, the day on which he entered the river, and the 4th of October, when he came out of the river into New York Bay and started on his return to Europe. So, to this intrepid man, as the records now stand, must be awarded the honor of being the first European who landed on New Jersey soil. On his return home some mutinous English seamen obliged him to anchor near Dartmouth, from whence the news was sent to James I of England of the discoveries made by Hudson. This monarch, whose dislike and jealousy of Holland often overpowered what little judgment he possessed, led him to the commission of many acts of injustice and folly and to overlook his own real interests, detained Hudson and his vessel in England. They were, however, afterwards released and Hudson and his vessel, known as the Half Moon, returned to Holland. The fate of this enterprising man was horrible. The next year after his return he entered into the English service and sailed for the northern seas. He reached Greenland in June, made his way to the straits known by his name and through them into the great bay also called after him. Although not well provided with food, he determined to remain in that inhospitable region through the inclement

season, so as to be able to prosecute his explorations during the coming summer. He made the incautious remark in the hearing of his sailors that he might be obliged to leave some of his crew behind, in consequence of the dearth of provisions, and this led to his death. His crew mutinied, put him, his son, and seven men, who alone adhered to him out of his whole crew of twenty-three sailors, on board of a small boat and left them to the mercy of the waves and of the savage inhabitants of the country. Attempts were afterwards made to rescue him and his companions, but without avail. His memory, however, survives and will ever remain while the noble river he discovered, the beautiful city reared at the spot where he landed on the bank of that river, and the great bay into which he sailed—all shall bear his name.

The English government claimed title to the American continent by virtue of its discovery by Cabot, at the close of the fifteenth century, and of the subsequent visits made by Hudson. He sailed, it is true, in a Dutch vessel and in the service of a Dutch commercial company, but he was an Englishman, they said, and so they claimed title to the new found continent through him also. They did not see the inconsistency of claiming in the one case, through the vessel, because it was English, and in the other, through an Englishman, although his vessel was Dutch. The Hollanders, in their turn, claimed the right through their servant, though an Englishman, but sailing in their ship, to that part of America where he landed.

In 1610 some Holland merchants of Amsterdam fitted out a vessel and sent it to Hudson's great river, to trade with the natives in furs, the only commodities the aborigines had to exchange with them. It is not probable that, at the outset, the Dutch intended to colonize the country, but simply to trade. The land, however, was a goodly one, and possessed all the appliances necessary for the comfort and happiness of a people; so immigrants were attracted thither and very early began to make permanent settlements. In 1614 two forts were erected, one at or near where now stands Albany, which was then called Fort Orange; and the other on Manhattan Island, which the Dutch called New Amsterdam. A trading house for the protection and convenience of European traders, was built on the southwest corner of the island, near the fort, and the whole country claimed by the Hollanders, including what is now New Jersey, was called New Netherlands. Other immigrants from the mother country flocked in and soon a small town sprang up near New Amsterdam, and settlements were made at other points on the river.

From this people came the first settlers of the northern part of New Jersey. In 1618 some Hollanders, with a few Danes and Norwegians, crossed Hudson River and made lodgment in Bergen county. The Hollanders found in the low lands lying on the Hackensack and its tributaries a country similar to that they had left behind them in Europe, and attracted by this similarity, there they reared their substantial dwellings, and there their descendants, of pure and unmixed blood, are to be found to-day, in what is now called Bergen county. If any representatives of other nationalities joined with them, they have been lost, amalgamated with this Dutch strain.

The English and Dutch almost immediately, or, at least, so soon as England waked up to the consciousness of the importance of the American continent, came to a contest about their respective claims to the country. Each claimed it by the right of discovery, and the Dutch added that of possession, but that of England was the better; though there was some merit in that set up by Holland. The first attempt made to enforce the English claim was, in a measure, accidental. A Captain Argall, of Virginia, had headed an expedition against the French in Acadia. On his return, in 1613, late in the autumn or early in the winter, he visited the Dutch settlements and Manhattan Island. He required them to acknowledge the king of Great Britain as their sovereign, to contribute towards his own expenses, and to agree to pay in the future a sort of a tax or tribute to the authorities of Virginia. They were unprepared to resist his demands and at once agreed to all he required at their hands. But the acquiescence was only for the time being, for the very next year they renounced their allegiance to the English crown and refused to make any further contributions to the treasury of Virginia. They were much encouraged in making this refusal, as Hendrick Christianse, in the following year after Argall's visit, arrived from Europe, armed with a charter granted by the States General, dated April 17, 1614, by which some merchants of Holland were granted certain rights of trading in the newly discovered lands. This brought additional immigrants from Holland to the colony, and in connection with the forts already erected on the island and at Albany, created a degree of confidence in the colonists, and they became defiant. Complaints were made at the Hague by the representatives of Charles of this invasion of English rights, but no regard seems to to have been paid to these remonstrances.

The Dutch became more and more demonstrative and claimed control over the whole country from Delaware Bay to New England.

It is quite probable that some settlements had been made in what is now, or once was known as Bergen county, prior to that already mentioned as having been made in 1618. A blockhouse was built near what is now Jersey City, which was once in Bergen county, for the protection of traders, and a small village had also been built at Bergen. This Dutch element finally spread through the whole of the county of Bergen and, in the beginning of the eighteenth century, made its way into Morris county. It has given some of the very best characteristics to the communities where it is found and has dominated those communities, so far as habits of thought, of manners and customs or religious beliefs and cermonies are concerned, from that time to the present. Its influence in those directions has never been effaced, but in all governmental affairs it has been overpowered by the stronger and more energetic Anglo-Saxon. Dutch names, Dutch peculiarities of thought, of character, of manner, prevail; even the Dutch language is still spoken by a majority of the older inhabitants of the county, and, until a recent date, the services in the churches were conducted in the pure Dutch idiom.

They and their descendants have been content to remain quietly in their comfortable homes, satisfied with the sure results of their agricultural labors. They have not originated great schemes, nor established great enterprises; but they have made most excellent citizens, true as steel to the best interests of the Republic, and ever ready to defend its honor and its integrity with fortune and with life if necessary. They have been a staid, God-fearing people, loving peace, seeking quiet lives, not fond of the rush and bustle of the busy marts of commerce and trade. Though they have not inaugurated courts, nor published codes of law, nor formulated systems of jurisprudence; yet they have been a law abiding people. The very best blood in both New York and New Jersey is derived from this immigration from the land of William the Silent.

These colonies on Manhattan Island and on Hudson River very soon became important; the mother country assumed control over them, sent governors to rule them, and a large and flourishing trade sprang up between them and the aborigines and Europe. Charles I of England was too much engrossed with his domestic quarrels with Parliament and people to attempt the enforcement of his claims by arms, and it was several years before the English government obtained control of the country.

A feeble attempt was made in 1634 to dislodge the Dutch, but it soon

came to nought and served no particular purpose. On June 21, 1634, a charter was granted to Sir Edmund Ployden by the English government, naming him as "Earl Palatine" over the country occupied by the Hollanders and over which they claimed authority. This charter gave him the most ample powers of government. He claimed that he had "amply and copiously peopled the same with five hundred people." His claim was undoubtedly untrue. The land granted by the charter was thus described in the grant: "All that entire Island near the Continent or Terra Firma of *North Virginia*, called the Isle of Plowden, or *Long Island* and lying near or between the thirty-ninth and fortieth degrees of North latitude, together with part of the Continent or Terra Firma aforesaid, near adjoining; described to begin from the point of an angle of a certain promontory called *Cape May* and from thence to the westward for the space of *forty leagues*, running by the river *Delaware* and closely following the course by the north latitude into a certain rivulet there, arising from a spring of the Lord Baltimore's in the lands of *Maryland* and the summit aforesaid to the south, where it touches, joins and determines in all its breadth; from thence takes its course into a square leading to the north by a right line for the space of forty leagues, and from thence likewise by a square inclining towards the east in a right line, for the space of forty leagues, to the river and part of *Reacher Cod* and descends to a savannah touching and including the top of Sandheey, where it determines; and from thence towards the south by a square stretching to a savannah, which passes by and washes the shores of the Island of *Plowden* aforesaid to the point of the promontory of *Cape May*, above mentioned and terminates where it began."

Sir Edmund made some efforts to enforce his claim; he resided seven years in his province, assumed the right to grant parts of his Palatinate to others, and actually made such grants on paper and pretended to exercise his authority, though it was never recognized by any other of the residents than by those whom he brought over from Europe with him, and possibly a few others who hoped for the ultimate success of his enterprise. His exercise of the office of governor has left no appreciable effect and certainly was never recognized by any Hollander. An attempt was made to effect a compromise of the conflicting claims, by an offer on the part of the Dutch to sell their "*claim and improvements*" for £2,500. Just exactly what was included in this offer to sell is not clear. It was not accepted, and the Dutch rose in their

price until their demand reached £7,000. Finally, not desirous of making any compromise, they withdrew all offers to sell. Great efforts were made to secure immigration; pamphlets were published, presenting great inducements to actual settlers, accompanied by the most glowing descriptions of the country, its soil, its fertility, its many appliances for human happiness and the richness and variety of its fruits and other products.

Before the grant to Ployden the "privileged West India Company" had been created by the States General and at once began operations in America. It did not, however, confine those operations to the settlements in and around Manhattan Island and on the Hudson River. An expedition was sent out, almost immediately after the formation of this company, in 1621, under Captain Cornelius Jacobus Mey, who coasted along the continent as far as Cape Cod. He sailed into Delaware Bay, gave his own name to that body of water, also called the cape at the extremity of New Jersey after himself, which name it still bears; the other cape of the bay he called Cornelius, after one of his christened appellations. He made some settlements in the lower part of New Jersey and protected them by erecting a fort near the spot where the city of Camden is now situated. For several years additions were made to this new settlement, but in 1632 it was abandoned and the country on the Delaware was left undisturbed, to return once more to the possession of its original inhabitants.

The Dutch, while they had possession of New Netherlands, exercised full control and absolute governmental authority over all the colonists there resident. The governors, who resided at New Amsterdam, took the name of Directors General, were commissioned by the States General, and had full supervision over the whole country. Subordinate officers were appointed, who assumed and exercised the authority of lieutenant-governors over smaller districts, those on Delaware Bay being known as the "three lower Counties," and the whole government was carried on in the name of "Their High Mightinesses, the States-General and the privileged West India Company." Grants of land were made, sometimes in very large districts, both in New York and New Jersey. Governor Kieft, in 1633, received one for Paulus Hoeck, the Dutch name for the peninsula where Jersey City is now situated. On May 11, 1647, Maryn Adrianse received a warrant for Weehawken; a large tract of indefinite extent was purchased by Augustine Herman, on December 6, 1651, on Raritan River, which seems to have included

the land where Perth Amboy is now found; on February 5, 1663, Governor Stuyvesant made a grant to Nicholas Verlett, of a tract called Hobuk in the Indian dialect; this, undoubtedly, is the modern Hoboken. Many other grants were made of land in New Jersey to various persons, some of which were confirmed by the English authorities when the country afterwards came into their possession. These grants were often accompanied by seignorial rights of lordship and of almost absolute government and all of these were made to Hollanders; for, anxious as they might be to encourage immigration, the Dutch sternly refused to admit any but their own countrymen as settlers within the bounds of New Netherlands.

This name New Netherlands was applied generally by the Hollanders to an indefinite extent of country, stretching from Virginia to Cape Cod and over which they claimed authority. But they never really exercised any control over any part of that undefined country, except what was included within the boundaries of modern New York and New Jersey.

The residents in New England cast longing eyes on the more fertile fields occupied by the Dutch, and made frequent advances towards arrangements for settling among them, but without avail. They even went so far as to make encroachments on the land occupied by the Hollanders. These encroachments and the pertinacious assertion by the English of their better right to the country led to various disputes, which at one time seriously threatened the peace existing between the two nations. The Dutch rejected all advances and met all these demands in the coolest manner, and this increased the animosity of the New Englanders. They complained to the government at home, but with no result. Cromwell was then Lord Protector of England, but he was too much engrossed in strengthening the power of his country on the European continent and in protecting his own authority at home, to pay attention to these petty squabbles, and turned a deaf ear to the complaints.

While all these disturbances were agitating the two colonies, both English and Dutch, the latter were not unmindful of the needs of the people; courts were established, under patents issued by the governor, in different parts of the country; one especially in New Jersey, which assumed considerable importance in the future history of that province, and to which fuller reference will be made hereafter.

During the time of these transactions in and around New Amsterdam

attempts were made by the Dutch to colonize the southern part of New Jersey. Several settlements were made, fortifications erected, governors were sent out from Holland and trade begun with the Indians. But ill success followed the colonists; the aborigines were antagonized; the settlements in some instances were attacked, in others abandoned, and the inhabitants massacred. One of the leaders of an expedition, on his return to the mother country, left a village in a prosperous condition, intending to revisit the settlement the next season with additional immigrants and supplies; he did return, according to his resolve, but found the village in ashes and no vestige of its former inhabitants. But notwithstanding all this, the Dutch never relinquished their claim to the whole of New Jersey, until they were dispossessed by the English.

In the time of Gustavus Adolphus, that monarch's attention, and, in a measure, that of his people, was directed towards the American continent, and especially, to the lands in the neighborhood of Delaware Bay, with the idea of establishing Swedish colonies there. Strange to say, the man most prominent in this Swedish movement of colonizing New Jersey was a Holland merchant, named Usselinx and a resident of Stockholm. He was exceedingly earnest in urging Gustavus to aid in furthering the objects of the enterprise, and was so far successful that the Swedish monarch became very favorably impressed with the idea and fully committed himself to its accomplishment. An association called "The South Company" was formed, to which was granted the most liberal terms and the most extensive authority. Its plans embraced three continents, America, Asia and Africa. The king himself entered so heartily into the undertaking that he issued a proclamation to his subjects, exhorting them to accept the offers made to actual settlers, which were of a very enticing character. The company was established on the most substantial basis; plans were laid to raise the sum of two millions and more of rix dollars, an enormous amount of money for those times; a fleet was to be built for the purposes of the expeditions, to be officered by an admiral, a vice-admiral and other naval officials, and every possible means were taken to secure success. The Swedes were sailors inured to every hardship of ocean life; the old spirit of their Viking ancestors still survived and the plan became popular among them. But the Thirty Years war broke out in Germany about that time; Gustavus threw himself heart and soul into the contest and his people enthusiastically supported their heroic king. In

1632 he fell at Lutzen, a martyr to the cause of tolerance. Further operations were suspended and nothing practical was done until several years after Christina, the mad daughter of Gustavus, succeeded to the throne. She was a mere child, only six years old, at the time of her father's death, and inherited none of his better characteristics of mind and nature. The war in Germany still continued after the death of Gustavus, under the leadership of Oxenstiern, his accomplished minister, who, with the whole Swedish people, sympathized with their illustrious master; and it did not end until the peace of Westphalia in 1648.

In 1637 or 1638 a ship of war and a transport were sent from Sweden under the auspices of the South Company, to the southern end of New Jersey, with a view of forming a permanent settlement. The settlers, among whom were a clergyman and an engineer, landed on the east side of Delaware Bay, purchased a large extent of land, running up to what is now Trenton, made extensive preparations for establishing a city, and built a fort, to which they gave the name of Christina. The town, if there ever was one, and the fort have entirely disappeared; not a vestige of either remains. During the war between England and France, in 1747, a redoubt was thrown up at this spot; and in making excavations about three feet below the surface of the ground, a Swedish coin, of the time of Christina, was found, together with some shovels, axes and other utensils. In 1640 or 1641 other bodies of immigrants came from Sweden and located in New Jersey. Several villages, or perhaps hamlets, were settled from time to time by Swedes, the names of which appear on the maps of that day. It cannot be determined, at this time, whether these were actual settlements, or whether they were merely names given to a single farm, occupied by one family.

In 1641 the Swedes and the Dutch made common cause against a settlement started under the authority of Sir Edmund Ployden, Earl Palatine, already mentioned, and expelled the intruders. But the union did not protect the Swedes from the subsequent assaults made upon them by the Dutch, for, in 1654, Peter Stuyvesant, the governor of New Netherlands, appeared in Delaware Bay with some five or six hundred men and utterly destroyed the Swedish authority, by attacking and demolishing the forts which had been erected by them. The conquest, however, was effected without any bloodshed. After taking possession of the country the Dutch governor proposed such terms that most of the Swedes remained, and their descendants are still

there. This was the end of all Swedish governmental control in New Jersey, except an occasional election to minor positions, such as burgomaster and the like. The Dutch were now in possession, nominally at least, of New York and New Jersey, certainly in actual possession of parts of both provinces. There was none within the bounds of the country they occupied to dispute their claim. But now there came on the scene an active and persistent foe of the States General, whose malice prompted him to do what neither his self-interest, nor his duty, as a sovereign, to his state, or to his subjects in the American continent, would have impelled him to accomplish or even to attempt. If Charles II had hated sin and unrighteousness with half the fervor that he did the Dutch, he would have been a better man and made a wiser monarch.

Towards the close of the first half of the seventeenth century, this was the condition of affairs, as to population, in New Jersey: In the northern and northeastern parts of the province the Holland strain predominated very largely, with a slight mixture, perhaps, of Norwegian blood, though this was so slight as to be hardly perceptible; in the central eastern part a few English had crept in by the side of the Dutch, but so few in number that their influence was not at all felt; in the southern districts of the colony the Swedish and Dutch elements had contended for the mastery, and the latter had been successful in the contest, but the majority of the Swedish colonists still remained, and the two nationalities were fighting the battle of life, side by side, in the new land, with the Holland element the more powerful of the two. Here, too, was a small English contingent, with some other smaller elements, perhaps some Norwegians and some few Finns. All the other parts of the province were covered by unbroken forests, occupied by scattered and broken tribes of Indians, fragments of the Lenni Lenapes, who had, at one time, been the most powerful of the aborigines of northern North America, but who had been conquered and disgraced by their inveterate and relentless foes, the Iroquois.

CHAPTER II.

Grant to the Duke of York by Charles II; Copy of Letters Patent Making the Grant; Attack on New Amsterdam by Col. Richard Nicolls; Attack on Southern Districts of New Jersey by Sir Robert Carre; Subjugation of New Netherlands by the English; Terms Granted to the Dutch on the Surrender; Results of Rule by the Dutch; Grant of New Jersey to Berkeley and Carteret by the Duke of York; Copy of Release; Name of New Jersey—how Derived; Lord Berkeley and Sir George Cartaret; Discussion of Right of English King to Transfer Governmental Authority; Distinction between the Letters Patent to York and the Release by him to Berkeley and Cartaret; Methods Adopted by the English Crown for Government of Colonies in America; Grants and Concessions of Berkeley and Cartaret.

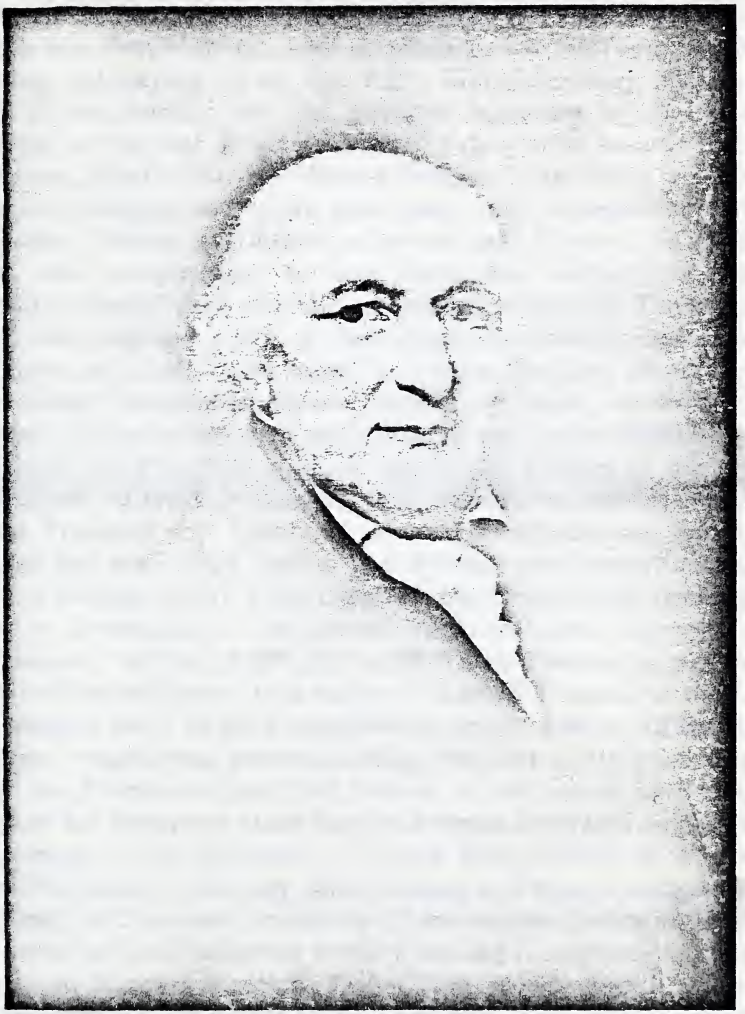
There was peace between England and Holland and Charles had no excuse for declaring war against the government he so hated. He would not, however, wait for any overt act to be committed by his wary antagonist which would enable him to strike Holland through her colonies in America. His New England subjects were clamorous in their complaints, and the opportunity was at hand to attack the Dutch colonies at once. His excuse for this undoubtedly seemed to him to be all that was necessary for his purposed action. The Dutch were in possession of a country to which the right of the English was unquestionably paramount; they had been repeatedly asked to surrender and had defiantly refused; they were therefore mere trespassers, and he, as the lord of the soil, as he insisted, had the right to remove them. Why should he hesitate? So, on the 12th day of March, 1633–34, he made a grant, called in the legal nomenclature of the day, "Letters Patent," to his brother, afterwards James II, then Duke of York and Albany and presumptive heir to the English crown. As this deed plays a very important part in the civil and judicial history of New Jersey, and as it will afford a specimen of the very best conveyancing of that day, it is given *verbatim et literatim*, and in full. A critical examination of it will reveal the singular fact that there has been but little change in the form of deeds of like character from that time until this, except, perhaps, that modern forms have become less verbose.

"CHARLES the Second, by the Grace of God KING of *England*, Scot-

land, France and Ireland, Defender of the Faith, &c. To all to whom these Presents shall come *Greeting:* KNOW ye, that we for divers good Causes and Considerations us thereunto moving, have of our especial Grace, certain Knowledge, and meer Motion, given and granted, and by these Presents for us, our Heirs and Successors, Do give and grant unto our dearest Brother JAMES, Duke of *York*, his Heirs and Assigns, all that Part of the main Land of *New-England*, beginning at a certain Place called or known by the Name of *St. Croix*, next adjoining to *New Scotland* in *America;* and from thence extending along the Sea Coast unto a certain Place called *Petuaquine* or *Pemaquid*, and so up the River thereof to the farthest head of the same as it tendeth Northward; and extending from thence to the River of *Kenebeque*, and so upwards by the shortest Course to the River of *Canada* Northward. And also all that Island or Islands, commonly called by the several Name or Names of *Matowacks* or *Long-Island*, scituate, lying and being towards the West of *Cape Codd* and the *Narrow-Higansetts*, abutting upon the main Land between the two Rivers there, called or known by the several Names of *Conecticut* or *Hudsons-river;* together also with the said River called Hudson's River, and all the Lands from the West side of *Conecticut*, to the East side of *Delaware Bay*. And also all those several Islands called or known by the Names of *Martin's Vineyard* and *Nantukes* or otherwise *Nantukett;* together with all the Lands, Islands, Soiles, Rivers, Harbours, Mines, Minerals, Quarries, Woods, Marshes, Waters, Lakes, Fishings, Hawkings, Huntings and Fowling; and all other Royalty's Profits, Commodities and Hereditaments to said several Islands, Lands and premises belonging and appertaining, with their and every of their Appurtenances; and all our Estate, Right, Title, Interest, Benefit, Advantage, Claim and Demand of, in or to the said Lands and Premises, or any Part or Parcel thereof, and the Reversion and Reversions, Remainder and Remainders; together with the yearly and other the Rents, Reveuues and Profits of all and singular the said Premises, and of every Part and Parcel thereof; TO HAVE AND TO HOLD all and singular the said Lands, Islands, Hereditaments, and Premisses, with their and every of their Appurtenances, hereby given and granted, or herein before mentioned to be given and granted unto our dearest Brother JAMES Duke of *York*, his Heirs and Assigns forever; to the only proper Use and behoof of the said JAMES Duke of *York*, his Heirs and Assigns forever; to be holden of us, our Heirs and Successors, as of our Mannor of *East Greenwich*

in our County of *Kent*, in free and common Soccage, and not in Capitie, nor by Knight service yielding and rendering. And the said JAMES Duke of *York*, doth for himself, his Heirs and Assigns, Covenant and Promise to yield and render unto our Heirs and Successors, of and for the same yearly and every Year, Forty Beaver Skins when they shall be demanded, or within Ninety Days after. And we do further of our special Grace, certain knowledge and meer Motion, for us, our Heirs and Successors, give and grant unto our said dearest Brother JAMES Duke of *York*, his Heirs, Deputies, Agents, Commissioners and Assigns, by these Presents, full and absolute Power and Authority to correct, punish, pardon, govern and rule all such the subjects of us, our Heirs and Successors, as shall from time to time adventure themselves into any the Parts or Places aforesaid; or that shall or do at any time hereafter inhabit within the same, according to such Laws, Orders, Ordinances, Directions and Instruments as by our said dearest Brother, or his Assigns, shall be established; and in defect thereof, in Case of Necessity, according to the good Directions of his Deputy's, Commissioners, Officers or Assigns respectively; as well in all Causes and Matters Capital and Criminal, as Civil both Marine and others; so always as the said Statutes, Ordinances and Proceedings be not contrary to, but as near as conveniently may be, agreeable to the Laws, Statutes and Government of this our Realm of *England;* and saving and reserving to us, our Heirs and Successors, the Receiving, Hearing and Determining of the Appeal and Appeals of all or any Person or Persons of, in or belonging to the Territories or Islands aforesaid, in or touching any Judgment or Sentence to be there made or given. AND further, that it shall and may be lawful to and for our said dearest Brother, his Heirs and Assigns, by these presents from time to time, to nominate, make, constitute, ordain and confirm, by such Name or Names, Stile or Stiles, as to him or them shall seem good, and likewise to revoke, discharge, change and alter as well all and singular Governor's, Officers, and Ministers which hereafter shall be by him or them thought fit and needful to be made or used within the aforesaid Parts and Islands; And also to make, ordain and establish all manner of Orders, Laws, Directions, Instructions, Forms and Ceremonies of Government and Magistracy fit and necessary for and concerning the Government of the Territories and Islands aforesaid; so always that the same be not contrary to the Laws and Statutes of this our Realm of *England*, but as near as may be agreeable thereunto; and the same at

all Times hereafter to put in execution or abrogate, revoke or change, not only within the Precincts of the said Territories or Islands, but also upon the Seas in going and coming to and from the same, as he or they in their good Discretions shall think to be fitest for the good of the Adventurers and Inhabitants there. AND We do further of our special Grace, certain Knowledge, and meer motion, grant, ordain and declare, that such Governors, Officers, and Ministers as from Time to Time shall be authorized and appointed in manner and form aforesaid, shall and may have full Power and Authority to use and exercise Marshall Law in Cases of Rebellion, Insurrection and Mutiny, in as large and ample Manner as our Lieutenants in our Counties within our Realm of *England* have or ought to have, by force of their commission of Lieutenancy, or any Law or Statute of this our Realm. AND We do further by these Presents, for Us, our Heirs and Successors, grant unto our said dearest Brother JAMES Duke of *York*, his Heirs and Assigns, that it shall and may be lawful to and for the said JAMES Duke of *York*, his Heirs and Assigns, in his or their Discretion from Time to Time, to admit such and so many Person or Persons to Trade and Traffique unto and within the said Territories and Islands aforesaid, and into every or any Part and Parcel thereof; and to have, possess and enjoy any Lands or Hereditaments in the Parts and Places aforesaid, as they shall think fit, according to the Laws, Orders, Constitutions and Ordinances by our said Brother, his Heirs, Deputies, Commissioners and Assigns from Time to Time to be made and establish'd by Virtue of, and according to the true intent and meaning of these Presents; and under such Conditions, Preservations and Agreements as our said Brother, his Heirs or Assigns shall set down, order, direct and appoint and not otherwise as aforesaid. AND We do further of our especial Grace, certain Knowledge, and meer Motion for Us, our Heirs and Successors, give and grant unto our said dearest Brother, his Heirs and Assigns, by these Presents, that it shall and may be lawful to and for him, them or any of them, at all and every Time and Times hereafter, out of any our Realms or Dominions whatsoever to take, Lead, Carry and Transport in and into their Voyages, and for and towards the Plantations of our said Territories and Islands, all such and so many of our loving Subjects or any other Strangers, being not prohibited or under restraint, that will become our loving Subjects and live under our Allegiance, as shall willingly accompany them in the said Voyages; together with all such Cloathing, Implements, Furniture and other



And Kirkpatrick

Things usually transported, and not prohibited, as shall be necessary for the Inhabitants of the said Islands and Territories, and for their Use and Defence thereof, and managing and carrying on the Trade with the People there; and in passing and returning to and fro, yielding and paying to us, our Heirs and Successors, the Customs and Duties therefor due and payable, according to the Laws and Customs of this our Realm. AND We do also for us, our Heirs and Successors, grant to our said dearest Brother JAMES Duke of *York*, his Heirs and Assigns, and to all and every such Governor or Governors, or other Officers or Ministers as by our said Brother, his Heirs or Assigns, shall be appointed; to have Power and Authority of Government and Command in or over the Inhabitants of the said Territories or Islands, that they and every of them shall and lawfully may from Time to Time, and at all Times hereafter forever, for their several Defence and Safety, encounter, expulse, repell and resist, by Force of Arms as well by Sea as by Land, and all ways and means whatsoever, all such Person and Persons as without the special Licence of our said dearest Brother, his Heirs or Assigns, shall attempt to inhabit within the several Precincts and Limits of our said Territories and Islands. And also, all and every such Person and Persons whatsoever, as shall enterprize or attempt at any Time hereafter the Destruction, Invasion, Detriment or Annoyance to the Parts, Places or Islands aforesaid or any Part thereof. AND LASTLY, Our Will and Pleasure is, and we do hereby declare and grant, that these our Letters Patents, or the Inrollment thereof, shall be good and effectual in the Law to all Intents and Purposes whatsoever, notwithstanding the not reciting or mentioning of the Premises or any Part thereof, or the meets or Bounds thereof, or of any former or other Letters Patents or Grants heretofore made or granted of the Premises, or of any Part thereof, by us or of any of our Progenitors, unto any other Person or Persons whatsoever, Bodies Politick or Corporate, or any Act, Law or other restraint, incertainty or imperfection whatsoever to the Contrary in any wise notwithstanding; altho' Express mention of the True Yearly Value or certainty of the Premises, or any of them, or of any other gifts or grants by us, or by any of our Progenitors or Predecessors heretofore made to the said JAMES Duke of *York*, in these Presents is not made or any Statute, Act, Ordinance, Provision, Proclamation or Restriction, heretofore had, made, enacted, ordained or provided, or any other Matter, cause or thing whatsoever to the Contrary thereof in any wise notwith-

standing. IN WITNESS whereof we have caused these our Letters to be made Patent. Witness ourself at *Westminster*, the Twelfth Day of *March*, in the *Sixteenth* Year of our Reign. By the KING, Howard."

The description of the country conveyed by this grant is quite indefinite, and it will be noticed that it had no western boundary. So little, in fact, was known of the great West which lay beyond, that no accurate western boundary could have been given. It included some parts of the continent which it was not in the power of Charles to grant, but that made little difference to the careless monarch. It did include, however, that part which the Dutch claimed, and in that was to be found the modern States of New York and New Jersey. It would seem from the subsequent conduct of the duke relating to his domain thus given him, that he did not really claim any part of New England, although the description appears to have covered all of the country east of the Connecticut River and west of Nova Scotia, or New Scot land. The grant not only conveyed land but it conferred on the grantee and his "*heirs and assigns*," governmental powers, both civil and military, of the fullest and most ample nature, such powers as the king alone possessed.

Charles added to this grant the means for the recovery of the country from the Dutch. In the middle of April, following the date of the deed to York, three British vessels sailing under the flag of England, two with fifty guns each, the other with forty guns, left England with six hundred soldiers and the necessary number of sailors, for the purpose of putting the duke in possession of the debatable country. This small fleet reached New Amsterdam on the 28th day of August succeeding. Col. Richard Nicolls, who had been appointed governor by the Duke of York of the country conveyed to him by the king, accompanied by Sir Robert Carre, was in command. He instantly invested the town and peremptorily demanded its surrender from the Dutch governor, the redoubtable Peter Stuyvesant. The demand was made not only for the forts, but for the town adjoining and its dependencies. Stuyvesant was a brave soldier and a doughty leader and he was determined not to yield without a struggle. He called together his council and the burgomasters of the town, and represented to them that the English meant mischief, and insisted that there was only one course to pursue, and that was to make instant prepartions for defense. But the English commander in his demand had announced the terms upon which he was willing to receive the sur-

render. These terms Stuyvesant did not communicate to his council, nor to his burgomasters, nor to the people. The members of the conference demanded that they should be informed as to the whole communication from the enemy. Stuyvesant was indignant and insisted that the question was not a consideration of terms, but what was the best manner of resisting the enemy. But his advisers were firm and more peremptory in their demands for fuller information. Stuyvesant stormed and raged, stumped around on his wooden leg and vehemently demanded that the fort should instantly be put in condition for defense, and the surrender refused. But the people and their representatives in the council were not inclined to submit their city, their property or their families to the bombardment which would inevitably have followed if they did not comply with the demands of the English. The odds were too great against them and they were entirely unprepared to resist any attack from so powerful a foe. So Stuyvesant was obliged to yield and to surrender, which he did with a protest against the cowardice of his people. The invaders landed quietly and raised the English flag over the forts. This was on the 3d day of September, 1634, and although the British did not then obtain full possession of the country, yet, on that day the Dutch rule over New Netherlands virtually ceased and the authority was transferred to the duke without bloodshed. On the 24th of the same September Fort Orange was seized in the same peaceable manner.

In the mean time, Sir Robert Carre, who was in command of the fleet, while Colonel Nicolls was at the head of the land forces, proceeded with two vessels to attack the settlements in the southern part of the province of New Jersey. He acted under special directions in conducting the enterprise and adopted an exceedingly wise course. Before investing any of the forts, or even demanding their surrender, he waited on all the planters he could reach, explained to them the condition of affairs, and promised them they would not be molested if they submitted quietly. They saw, at once, the absurdity of making any resistance, accepted the situation and transferred their allegiance to the English duke. This submission disarmed the garrisons in the forts and the subjugation of that part of New Netherlands was obtained at the cost of two barrels of powder and twenty shot.

Thus ended the Dutch rule in North America, after half a century's existence. It had been mild and patriarchal towards its own people, but not always just nor merciful to the savages, who had been more

than once surprised in their villages while asleep at night and slaughtered without mercy, not even the women and babes having been spared. Atrocities of the most revolting character had been perpetrated in their treatment of the aborigines, and it is not wonderful that the Indians turned and wreaked vengeance on their oppressors. Nor can it be said that the rule of their "High Mightinesses, the States General," had resulted in any great degree of civilization, nor in developing the resources of the country to the extent which the opportunities afforded them demanded. Their colonists were intent on trade; that was the main object of their emigration to the new country; they were unsystematic; their rulers lacked energy, perseverance, farsightedness; they could not understand that before them was a great future with possibilities in it which never before had existed in the dawn of a nation's history. Still, the Dutch did much in the way of civilization; they builded their comfortable dwellings; they dug and delved; they surrounded themselves and their families with appliances for comfort and happiness; but they were a commercial people, attached to their homes planted on their own soil. They possessed some characteristics which fitted them for the best Christian civilization; but they lacked those energizing forces which impelled them to noble deeds; to mighty enterprises; to found great cities; to seek new appliances for the benefit of humanity—which call forth from human nature the broadest and noblest efforts for the amelioration of the race. Mingled with other blood, they were the solid substantial foundation of an edifice builded for all time, fitted to withstand and to hold fast, but always to remain stationary and immovable. So, there came into action on this western continent a new force, vitalizing, quickening, energizing all other forces with which it came in contact, equipped with all the necessary appliances for forming and moulding a new empire in this western world, upon the broadest foundations, which would, in the end, challenge the admiration of all true lovers of liberty, and perplex and astound tyrants and oppressors.

When the English became rulers in New Netherlands, a new order of affairs was introduced. New Amsterdam became Fort James; Fort Orange was named Albany; and the province, New York. New Jersey, up to this time, had had no distinctive title, having been included in the country called New Netherlands; it was not known as New Jersey until some time afterwards, when James separated it from New York by grant to Berkeley and Carteret.

Such inducements were made to the colonists, both in New York and New Jersey, to remain, that a very large number of them became subjects of the new government, and they and their descendants never afterwards swerved from their fealty to the English crown until the colonies declared themselves independent. In all this there was no violent wrench; in fact, there was very little change; there was really no perceptible difference in the laws governing the relations of citizens to each other or to the state. English officers, in a very few instances, were introduced, and the English language was oftener heard in the streets and in the court rooms. The former colonists retained their property; business went on as usual; the administration of justice was conducted in the same manner and, substantially, on the same principles. It was not long before the names of prominent Hollanders were found in the records of the new government, as holders of important official positions. The Dutch language was still spoken in the family, in market and in places of business; divine service was conducted in that language as of yore.

The terms of capitulation were agreed upon by a joint commission consisting of six representatives from each nation, and were the most liberal ever granted by a victorious enemy to a conquered nation. Of course, the English were not entirely unselfish in their action in granting such liberal terms. They were desirous of retaining the present inhabitants, of securing their allegiance as loyal subjects. The terms were so liberal that it will be interesting to notice a few of them: The Dutch West India Company was allowed to retain all its property, real and personal, except such as was in the forts, and was allowed six months' time for the removal of its goods, arms and ammunition; if these were not removed within the time agreed upon, then a fair price was to be paid for them. All the colonists were to remain free denizens and to retain their lands, houses, goods and ships wheresoever they might be, and they were to be at full liberty to sell or otherwise dispose of their estate in such manner as they might choose. If any colonist desired to leave, he was allowed a year and six weeks from the date of the agreement for removing his family and property, and for selling his lands. Hollanders might freely come from the mother country and settle anywhere in the colony, and those already settled there might remain or return to Holland, as they chose. Dutch vessels might come into the ports of the country and go without hinderance. Full liberty of conscience in the worship of God, according to Dutch doctrine and disci-

pline, was granted. No Hollander, nor Holland ship would be compelled to serve in war, against Holland. The people were to enjoy unmolested their own manners and customs concerning property. All public records and writings were to remain undisturbed, and any writing which concerned the States General might be sent to Europe to be returned to the owners. No legal process would be interfered with, nor questioned. All inferior civil officers were to continue in office if they chose, until new elections, but new officers should take the oath of allegiance to England. Military officials and soldiers could depart with their arms and flags, but if any of them chose to remain as permanent settlers, fifty acres of land would be assigned to them.

These were the terms granted to the inhabitants of New Amsterdam and of the Dutch settlements adjacent. Even Peter Stuyvesant, himself, could not resist them, and continued to reside there until his death.

Sir Robert Carre offered somewhat similar terms to the Swedes and Dutch whom he found in New Jersey. The fact that he treated separately with the Swedes, shows that they were recognized as an independent nationality. The names of some of the burgomasters attached to the agreement between Carre and the officers of the towns in New Jersey who entered into it, fully show that several Swedes were among the chief citizens of that part of the country, and that consequently there must have been a comparatively large number of Swedish colonists still remaining there.

This action of the English in thus summarily dispossessing the Dutch, at a time when the two nations were at peace, gave rise to great controversy. Some historians and writers denounced the act of Charles as a gross outrage; others as strenuously defended it. At this lapse of time, it can be coolly and dispassionately judged; then, the judgment was perverted, as the historian or writer happened to be connected with either of the nations whose rights were involved.

Charles, no doubt, hoped that the attack on New Amsterdam would provoke the Dutch to declare war, and he was not disappointed. The States General immediately opened hostilities and a war ensued in which the principal powers of Europe were soon involved. In 1667, however, hostilities ceased, the peace of Breda was signed, by the terms of which New Netherlands remained in the possession of the English, and there it continued until July, 1673. In March, 1672–3, Charles II, in connection with France, declared war against Holland, and the States-

General, apparently remembering the seizure of New Amsterdam by the English king in 1664, dispatched a fleet of five vessels against New York, in July, 1673, and on the 30th of that month the town was easily captured, and according to the preponderance of the authorities, without bloodshed. The Dutch emulated the action of the English, when, in 1663, New Amsterdam was seized by them, and by proclamation, guarantied to the settlers full possession of all their property and the privileges of free citizenship, upon condition that they should swear allegiance to the Dutch authorities. The majority of the magistrates and constables in the adjacent settlements proceeded to "New Orange," the name given to New Amsterdam by the Dutch, and took the oath. This seems only to have been the case in the settlements in New York, for, on the 15th of August, the inhabitants of Newark, Elizabeth Town and Piscataway presented a petition to the Dutch authorities praying that their rights and privileges might be secured to them. A military tribunal was then sitting at New Orange, consisting of officers of the forces sent over by Holland, which received this petition and instantly acted upon it. The petitioners were confirmed in the possession of all lawfully acquired lands, were placed on an equal footing with the subjects of Holland, as far as their rights as citizens were concerned, and it was stipulated that if they conducted themselves properly, they would not be required to take up arms against England. The sale and conveyance of their land were to be regulated by Dutch laws, but they were permitted to sell it or dispose of it by will, and they might remove their personal property with themselves, if they chose to leave the country. Full liberty of conscience in all religious matters was accorded to them. The Dutch authorities were not satisfied, however, with the precautions for securing the loyalty of the inhabitants of New Jersey; for, in September, a sort of roving commission was appointed to visit the settlements in "Achter Kol," as New Jersey was called by the conquerors of the country in their official papers, and require an oath from each inhabitant. Four settlements, Newark, Elizabeth Town, Woodbridge and Middletown certainly, were visited, and a list made of all the inhabitants who took the oath and of those who were absent, most of whom afterwards complied with the requirements of the Dutch. The lists give some idea of the number of people resident in these four towns: There were 73 in Newark and 11 absent; 50 in Elizabeth Town and 21 absent; 44 in Woodbridge and 5 absent; 81 in Middletown, and apparently none absent. Some large holders of detached plantations

were confirmed separately in their holdings and in their privileges as citizens. There is no record, so far as can be ascertained, that the settlers in Bergen county were required to take the oath; presumably, because the authorities believed that as they were of Dutch blood, they were so attached to their native country as not to require that ceremony to secure their loyalty. An assembly met on the 18th of November, 1673, at Elizabeth Town, where a code of laws was promulgated "By the Schout and Magistrates of [1] Achter Kol, Assembly held at Elizabeth Town to make laws and orders." This code was intended to govern the province of New Jersey and superseded all English laws which had been passed for that purpose. It was exceedingly mild, certainly, in one respect, namely, the character of the punishments for crimes. It reflected great credit on the authority which passed it, as it made strong efforts to provide for the morality of the communities and for their regulation in such matters as were for their best interests in the very beginning of their history. Religion was not forgotten; the observance of the Christian Sabbath; the providing for ministers of the gospel and the erection of churches were considered of prime importance and received due consideration. In less than a year after war was declared, the peace of Westminster was signed by the commissioners of the belligerents. New Netherlands was restored to England and the country continued in her possession until the Revolution of 1776, when New York and New Jersey, following the fortunes of the other rebellious colonies, renounced their allegiance to the English crown, became free and independent, and materially aided in founding the great Republic.

It will be remembered that the deed to the Duke of York from his royal brother was made in March, 1663–64, and for a very indefinitely described country. Even before the duke had obtained possession of the land really claimed by him under the grant from the king; even before the fleet which his brother had sent to America to aid him in dispossessing the Dutch had reached New Amsterdam, he made a conveyance by the way of lease and release to Lord Berkeley and Sir George Carteret of a portion of his domain. The lease is not copied here, as it is not deemed important for present purposes. It was in the ordinary form of a lease used in those days, dated the day prior to

[1] Dr. Hatfield, in his excellent history of Elizabeth, makes the strange mistake of calling Newark Bay "Achter Koll." There can be no possible doubt that by that term the Dutch intended to name the whole province of New Jersey.

that of the release, was given for the term of one year and for the rent of a "*peper corn.*" But the release is important, as it is the foundation of titles to land in New Jersey, is very often referred to in the legal literature of the State, and gave rise to much discussion and some controversy in the courts, and was as follows: "THIS INDENTURE made the *four* and *Twentieth* Day of *June*, in the *Sixteenth* Year of the Reign of our Sovereign Lord, CHARLES the Second by the Grace of God of *England*, *Scotland*, *France* and *Ireland*, KING Defender of the Faith, &c. *Annoq. Domini*, 1664, Between His Royal Highness, JAMES Duke of *York*, and *Albany*, *Earl* of *Ulster*, Lord High Admiral of *England*, and *Ireland*, Constable of *Dover-Castle*, Lord *Warden* of the Cinque-Ports, and Governor of *Portsmouth*, of the one part: *John Lord Berkeley*, Baron of *Stratton*, and one of His Majesty's most Honourable Privy Council, and Sir GEORGE CARTERET of *Saltrum* in the County of *Devon*, Knight and one of His Majesty's most Honourable Privy Council, of the other Part: Whereas his said Majesty King CHARLES the Second, by his Letters Patent under the Great Seal of *England*, bearing Date on or about the *Twelfth* Day of *March*, in the *Sixteenth Year* of his said Majesty's Reign, did for the consideration therein mentioned, give and grant unto his said Royal Highness JAMES Duke of *York*, his Heirs and Assigns all that part of the Main Land of *New-England*, beginning at a certain Place called or known by the Name of *St. Croix* next adjoining to *New-Scotland* in *America;* and from thence extending along the Sea Coast unto a certain Place called *Pemaquie* or *Pemaquid*, and so by the River thereof to the furthest head of the same as it tendeth Northward; and extending from thence to the River of *Kinebeque*, and so upwards by the shortest Course to the River *Canady* Northwards; and also all that Island or Islands commonly called by the several Name or Names of *Matowacks* or *Long Island*, situate and being towards the West of *Cape Codd* and the *Narrow Highansetts*, abutting upon the main Land between the two Rivers there, called or known by the several Names of *Connecticutt*, and *Hudson's-River;* together also with the said River called *Hudson's-River* and all the land from the west side of Connecticutt to the east side of *Delaware* Bay: And also several other Islands and Lands in the said Letters Pattents mentioned, together with the Rivers, Harbours, Mines, Minerals, Quaries, Woods, Marshes, Waters, Lakes, Fishing, Hawkings, Huntings and Fowling, and all other Royalties, Proffits, Commodities and Hereditaments to the said several Islands,

Lands and Premises belonging and appertaining, TO HAVE and TO HOLD the said Lands, Islands, Hereditaments and Premises with their and every of their Appurtenances, unto his said Royal Highness JAMES Duke of *York*, his Heirs and Assigns forever; To be holden of his said Majesty, his Heirs and Successors as of the Manner of *East-Greenwich* in the County of *Kent*, in free and common Soccage, yielding and rendering unto his said Majesty his Heirs and Successors of and for the same, Yearly and every Year, forty Beaver Skins, when they shall be demanded, or within Ninety Days after; with divers other Grants, Clauses, Provisos, and Agreements, in the said recited Letters Patents contain'd, as by the said Letters Patents, relation being thereunto had, it doth and may more plainly and at large appear. Now this Indenture Witnesseth, that his said Royal Highness JAMES Duke of *York*, for and in consideration of a competent sum of good and lawful Money of *England* to his said Royal Highness JAMES Duke of *York* in Hand paid by the said JOHN LORD BERKELEY and SIR GEORGE CARTERET, before the Sealing and Delivery of these presents, the Receipt whereof the said JAMES Duke of *York*, doth hereby acknowledge, and therefore doth acquit and discharge the said JOHN LORD BERKELEY and SIR GEORGE CARTERET forever by these Presents, hath granted, bargained, sold, released and confirmed and by these Presents, doth grant, bargain, sell, release and confirm unto the said JOHN LORD BERKELEY and SIR GEORGE CARTERET, their Heirs and Assigns forever, All that Tract of Land adjacent to *New-England*, and lying and being to the Westward of *Long Island*, and *Manhitas Island*, and bounded on the East apart by the main Sea, and part by *Hudson's*-River, and hath upon the West *Delaware* Bay or River, and extendeth Southward to the Main Ocean as far as *Cape-May* at the mouth of *Delaware* Bay; and to the Northward as far as the Northermost Branch of the said Bay or River of *Delaware* which is forty-one Degrees and forty Minutes of Latitude, and crosseth over thence in a strait Line to *Hudson's*-River in forty-one Degrees of Latitude; which said Tract of Land is hereafter to be called by the Name or Names of *New Ceasarea* or *New Jersey:* And also all Rivers, Mines, Mineralls, Woods, Fishings, Hawking, Hunting, and Fowling, and all other Royalties, Proffits, Commodities, and Hereditaments whatsoever, to the said Lands and Premises belonging or in any wise appertaining; with their and every of their appurtenances, in as full and ample manner as the same is granted to the said Duke of York by the before recited Letters Patent; and all the

Estate, Right, Title, Interest, Benefit, Advantage, Claim and Demand of the said JAMES Duke of *York*, of in or to the said ——— and Premises or any Part or Parcel thereof, and the Reversion and Reversions, Remainder and Remainders thereof; All which said Tract of Land and Premises were by Indenture, bearing Date the Day before the Date hereof, bargain'd and sold by the said JAMES Duke of *York*, unto the said JOHN LORD BERKELEY and SIR GEORGE CARTERET, for the Term of One whole Year to Commence from the first Day of May last past, before the date thereof, under the Rent of a Peper Corn, payable as therein is mentioned as by the said Deed more plainly may appear: By Force and Virtue of which said Indenture of Bargain and Sale, and of the Statute for transferring of uses into Possession, the said JOHN LORD BERKELEY and SIR GEORGE CARTERET, are in actual Possession of the said Tract of Land and Premises, and enabled to take a Grant and Release thereof, the said Lease being made to that end and purpose, TO HAVE AND TO HOLD all and singular the said Tract of Land and Premises, with their, and every of their Appurtenances, and every part and parcel thereof, unto the said JOHN LORD BERKELEY and SIR GEORGE CARTERET, their Heirs and Assigns for ever, to the only use and behoof of the said JOHN LORD BERKELEY and SIR GEORGE CARTERET their Heirs and Assigns for ever; Yielding and rendering therefore unto the said JAMES Duke of *York*, his Heirs and Assigns, for the said Tract of Land and Premises, Yearly and every Year the sum of *Twenty Nobles* of lawful money of England, if the same shall be lawfully Demanded at or in the Inner Temple Hall *London*, at the Feast of *St. Michael* the Arch Angel yearly. And the said JOHN LORD BERKELEY and SIR GEORGE CARTERET for themselves and their Heirs, covenant and grant to and with the said JAMES Duke of *York*, his Heirs and Assigns by these Presents, that they said JOHN LORD BERKELEY and SIR GEORGE CARTERET, their Heirs and Assigns, shall and will well and truly pay or cause to be paid unto the said JAMES Duke of *York*, his Heirs and Assigns, the said Yearly Rent of *Twenty Nobles* at such Time and Place, and in such manner and form as before in these Presents is expressed and delivered. IN WITNESS whereof the Parties aforesaid to these Presents have inter-changeably set their Hands and Seals, the Day and Year first above Written. JAMES.

Sign'd, Seal'd and deliver'd
in the Presence of
WILLIAM COVENRYE,
THOMAS HEYWOOD."

There was a distinction between the form of the deed to the Duke of York and that to Lord Berkeley and Sir George Carteret. In the one case it assumed the form of an absolute, indefeasible conveyance in fee simple, with all the technicalities then known to the English law necessary to convey a fee simple; in the other case it took that peculiar form known to English conveyancers, never recognized in New Jersey, certainly not since colonial days, called "*Lease and Release.*" This was an invention of British lawyers, made after the passage of the statute of uses, and was accomplished in this wise: A lease was made by the seller to the purchaser of the premises sold, for a term, generally of one year, or a bargain and sale for the same, or some other term, with a reservation of rent, which might be nominal; then, on some day, generally the next one after the date of the lease, a release was executed by the lessor, who, of course, must be the owner, to the lessee, with granting words sufficient to convey a fee. The grantee of the release being the lessee and in possession under his lease, or presumed so to be, was vested with a full estate in fee in the land released, and this precluded the necessity of "livery of seizin," or of actual delivery of possession in person. This method of conveying land became a favorite one with English conveyancers and obtained so strong a hold upon lawyers and courts that the practice could not be shaken, although, at first, some good counsel doubted its efficiency.

For the first time in history the name, New Jersey, was applied to a portion of the earth's domain; the country so denominated now became, in some respects, a distinct province, but not yet independent of New York; for a few months, Colonel Nicolls was governor of the two provinces. The name was given in honor of Sir George Carteret, who had been an intense royalist during the civil war between Charles I and the English Parliament, and who had gallantly defended the Island of Jersey for the king against the rebel army sent to reduce it. He had been a naval officer and had attained a high standing in his profession. Through the influence of the Duke of Buckingham, he had been appointed joint governor of the Island of Jersey. On the breaking out of the Civil war he held the position of comptroller in the navy. He was greatly esteemed by all parties and would have been appointed vice-admiral in the navy, under the Parliament, had he not obeyed the orders of Charles I, who expressly forbade his acceptance of the appointment. Being thus deprived, by the action of the king, from serving in the navy, he retired with his family to Jersey, but soon returned to

England, threw in his fortunes with the royalists and was made a baronet in 1645, after which he again went to Jersey and held it under the king. On the failure of the royal cause, he gave an asylum on the island to the Prince of Wales and other refugees. He made such a determined resistance to the Parliamentarians that Charles II was induced to command him to surrender, in order to save the gallant defenders from death, thus emulating the example of his ancestor, who, in 1374, defended the same island against the French. Elizabeth Castle, in Jersey, under the command of Sir George, was the last of the loyal fortresses of England to surrender. When Charles II was restored to the throne of his ancestors, Sir George joined his train, on the occasion of his triumphal entry into London, and the very next day became one of the Privy Council. He was also made vice-chamberlain, but in 1669 was expelled from the House of Commons, for real or alleged misconduct in that office. The charge against him was embezzlement of the public money, but there seemed to be some doubt of his guilt, as there was considerable difficulty in determining the vote on his trial, and when it was finally decided it was ascertained, but only after repeated counts, that the majority against him was only nine out of a vote of two hundred and sixty-seven. As it was, if the first count of tellers had been taken, he would have been acquitted. There must have been grave doubts as to his guilt, as he was soon afterwards returned to Parliament by the corporation of Portsmouth.

Lord John Berkeley, like Sir George Carteret, was an intense loyalist and followed the cause of Charles through all its vicissitudes. He commanded the royal army in its campaign against the Scots in 1638, and was knighted for his services at Berwick, in that year. He was foremost among those who served the king, went into exile at the death of Charles I and remained with the royal family until the restoration. In 1652 he was placed at the head of the household of the Duke of York, and in 1658 was raised to the peerage as Baron Berkeley of Stratton, in the County of Somerset, the spot where he had gained a victory for the royal cause. When Charles II was restored, he made the baron one of his Privy Council, and later, he was elevated to the office of Lord Lieutenant of Ireland. In 1675 he was appointed ambassador at the Court of Versailles. His life was a busy one in the service of the Stuart family. He died August 28, 1678. Lork Berkeley and Sir George Carteret, in the deeds, grants and proclamations made by them, sometimes assumed the title of "the true and absolute Lords Proprietors of

New Ceasarea, or New Jersey," sometimes, simply of the "Lords Proprietors of New Jersey" By that latter name, they and their assignees have been known in New Jersey until the present time. The organization which finally succeeded to the rights of the original grantees of the Duke of York, in New Jersey, is still in existence and has its office at Perth Amboy, where its records and papers have been preserved for many years. It still claims title to some land in New Jersey. An attempt was made about a half a century ago to claim the land lying on the banks of the Passaic River, between high and low water mark, which gave rise to a *cause célèbre* in the courts of New Jersey, and created a great excitement at the time, but the courts decided against the claim, and nothing has since been heard of any demand of a like nature.

There can be no doubt of the right of an English king to make grants to any person or persons whom he may select, of "*crown lands*," such as are found in a newly discovered country, in which the sovereign has a fee simple obtained by discovery, or by possession, or in any manner in which such fee may be gained. But a serious question arose soon after these grants were made to the Duke of York and by him to Lord Berkeley and Sir George Carteret, whether the monarch could lawfully transfer the right of government over the inhabitants of the land so conveyed. The right to reign was an inherited one and was personal—attached to the person of the ruler, and could not be transferred. The subject had a right to demand that he should be ruled by his lineally descended king, and not by a stranger. If the king could assign dominion, the right of government, to a stranger and his assigns, the assignee could, in turn, assign to another stranger. Nay, more, the stranger assignee could split up the granted country into as many lesser dominions as he chose, grant these lesser dominions to other strangers with right of governing, and the spectacle would be presented of a country divided into infinitesimal sovereignties, each governed by its own ruler, with different codes of law and variant modes of administration. Another question was necessarily involved in the discussion: Government might not only be made the subject of bargain and sale, transferred for pounds, shillings and pence, but so might the allegiance of the citizens living in the transferred country.

Besides the difference between the form of the deed from the king to the Duke of York and that made by the duke to Berkeley and Carteret, there was another very marked distinction and one of

very great importance. There could be no mistake in the construction of the Letters Patent to the duke from the king, of the conveyance of governmental power; it was clear and undoubted, absolute and unconditional, and was indefeasible. But the release from the duke to Berkeley and Carteret only conveys the right to rule by implication. The clauses which make this implication are these: "And also all Rivers, Mines, Mineralls, Woods, Fishings, Hawking, Hunting and Fowling, and all other Royalties, Proffits, Commodities, and Hereditaments whatsoever, to the said Lands and Premises belonging or in any wise appertaining; with their and every of their appurtenances, in as full and ample a manner as the same is granted to the said Duke of York by the before recited Letters Patents: and all the Estate, Right, Title, Interest, Benefit, Advantage, Claim and Demand of the said James Duke of York, of in or to the said ——— and Premises, or any Part or Parcel thereof, and the Reversion and Reversions, Remainder and Remainders thereof."

But little notice of this distinction was taken at the time; the inhabitants were few, and they were forced by absolute necessity to devote all their energies and their whole time and attention to the procuring of a mere subsistence. But, as the number of inhabitants increased and their prosperity placed them beyond want, they began to question the right of the Lords Proprietors to rule over them, and this gave rise, as will be seen hereafter, to sharp conflicts.

There were three methods adopted by the English government in dealing with lands in the newly discovered continent of America: By one of these the sovereign merely delegated the right to rule to officers appointed by him, to hold during his pleasure, or for a term of years, or for life. These officers were representatives of the monarch, were responsible to him and their authority was limited by the instructions received from him. This delegated authority simply gave the power to rule in the name of the king, was disconnected from any grant of land and was called a "royal government."

By another method, the government in the colony was established through what was called charters; by which certain powers of ruling were granted to the people, limited, however, by the terms of the charter, or by the will of the monarch. No rights to property accompanied this form of government. In the other case, power was given in connection with the land, which was conveyed in fee to the grantee of the power to rule; this was called a proprietary government. That of the

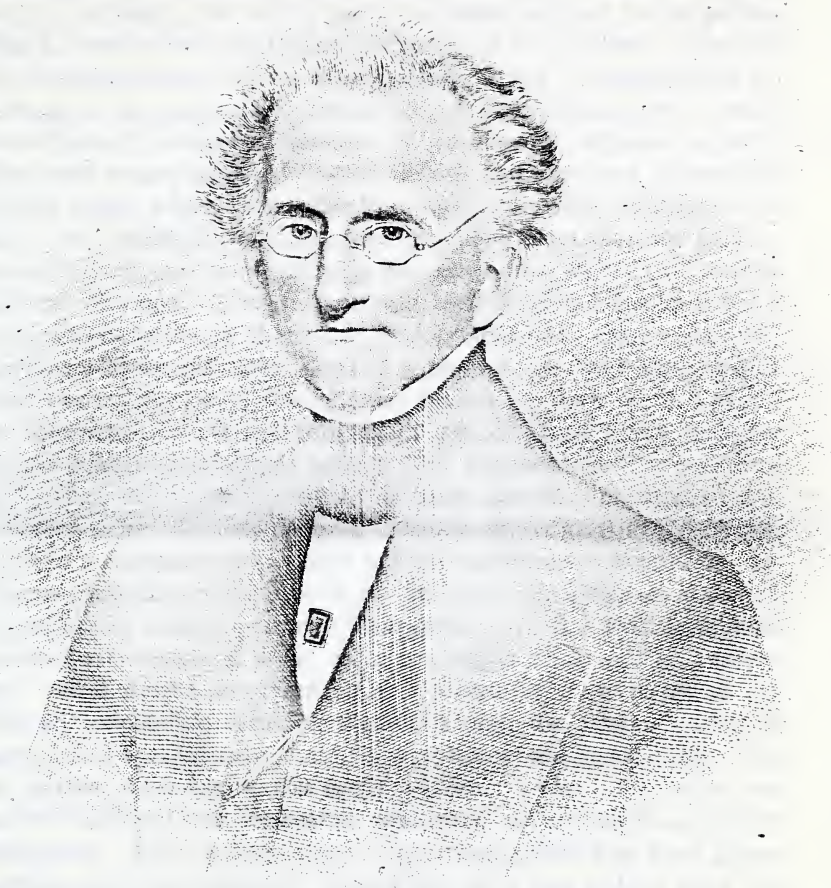
Duke of York was essentially, in every particular, a proprietary government. The proprietary form was not new in the history of English colonies, but, in no instance was the grant so full, so ample, so far reaching as in the case of the one made to York. It is useless conjecture to strive to fathom the motives which induced Charles to make so unlimited a disposition of land and authority to his brother.

Whatever doubts may, at any time, have been entertained of the proper construction of the deed by York to Berkeley and Carteret, their conduct gave full evidence of what they thought the deed meant. They immediately became rulers as well as proprietors of the soil. On the 10th day of February, 1664–65, they commissioned Philip Carteret, a brother of Sir George, as governor of New Jersey. In the commission, their first official act, so far as can be ascertained, they call themselves the "true and absolute *Lords Proprietors* of all the province of New Ceasarea or New Jersey."

CHAPTER III.

Grants and Concessions of the Lords Proprietors; Lord Baltimore and Maryland; Roger Williams and Rhode Island; Copy of Grants and Concessions; Elizabeth Town; Grants by Governor Nicolls of Land in New Jersey; Condition of Legislative and Judicial Affairs in New Jersey; Settlement of Newark; Characteristics of its First Settlers; Fundamental Agreements; Copy.

On the 10th day of February, 1664–65, the same day on which Philip Carteret was appointed governor of New Jersey, Lord Berkeley and Sir George Carteret issued their celebrated "Grants and Concessions," in which they described themselves as "The Lords Proprietors of the province of New Ceasarea or New Jersey." Great credit has been awarded them for this remarkable document and, perhaps, somewhat deservedly. But, it must be remembered that there were some circumstances, existing at the time, which impelled them to issue it. The country granted to them was virtually uninhabited by Europeans, and was valueless to them unless it were peopled. To induce immigration, motives of the strongest kind must be presented. The country was new and, in a measure, unknown; the aborigines were still there, and



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dangers attended the journey thither from the mother country. England was in a ferment; the old dynasty had been restored in the person of Charles II, but he was mistrusted by many of his subjects. The old spirit of Puritanism was by no means dead; many thousands still ardently clung to its principles; thousands of Roundheads, who hated Rome, who feared its re-establishment in the country, who had no faith in Charles, who were disgusted by his follies and the open, shameless orgies of his court, whose hopes for the reign of a pure religion were centered in the establishment of a church freed from all taint of Romanism—still lived, and were longing for an asylum where they might find religious tolerance. The colonists in New England found there a sterile soil which returned them but little reward for their continued and laborious efforts and they desired a change, so that they might find a land where they could secure some return for their labor. Many of these colonists, like their brethren in old England, were dissatisfied with the condition of affairs even in New England, and longed for a land and a government where perfect tolerance existed. Strange to say, some of these same colonists desired to locate where they could isolate themselves in a community in which perfect intolerance should be the law. These conditions were known to the Lords Proprietors and they took advantage of them to induce immigration to the new province. There men of all views and of all religions might come and be assured that they would not be interfered with because of their religious beliefs; that all reasonable demands would be met, the proper wishes of all respected and the requisite conditions of life would be supplied. So, for once, in that dark day of the world's history when intolerance was still the rule and not the exception, mammon surrendered and tolerance triumphed. But, in one respect, too much credit has been given to the authors of this document, remarkable as it was at that time for its liberality. Berkeley and Carteret were not the first to found governments in the new world upon principles which included tolerance and the individual rights of the citizen. Lord Baltimore, a Roman Catholic, founded Maryland, and based its government upon the broadest tolerance, and in 1649, by an act of the Legislature of that province, it was declared as fundamental law that "no person or persons whatsoever, professing to believe in Jesus Christ shall from henceforth be in any way troubled, molested, or discountenanced for and in respect of his or her religion, nor in the free exercise thereof, nor in

any way compelled to the belief or exercise of any other religion against his or her consent."

Roger Williams, in 1636, established Rhode Island upon the doctrine of liberty of conscience and the personal rights of man. He had before this preached all over the settled portion of New England the inherent right of man to worship God in the manner he thought right and had proclaimed a purer and better government than had ever blessed humanity. In the preceding century, William Prince of Orange, Stadtholder of Holland, that immortal hero and patriot, had perplexed and astonished the kings of Europe by his doctrines of religious tolerance and of the equality of man, and had fallen a martyr in the sacred cause he so ennobled The world, then, was moving, a spirit of inquiry was abroad, men were emerging from the darkness of superstition, spurning the shackles of oppression and demanding the rights which had been denied to their ancestors—which their fathers had never known and had never appreciated.

The "grants and concessions" are important in both the civil and the judicial history of New Jersey; they enter largely as a factor in the forming and moulding of the politics of the State, and are intimately interwoven into its very life. They may be called the first constitution of the colony and in them are embodied the best principles of a popular government that have ever been formulated in any age or any country. They are, as they have been truthfully termed, the Magna Charta of New Jersey, were the basis and foundation of its early government and are embodied in it. The parts of this document deemed most important are as follows:

"THE CONCESSION and AGREEMENT of the Lords Proprietors of the Province of New-Caesarea, or New Jersey, to and with all and every Adventurers and all such as shall Settle or Plant there."

"IMPRIMIS. We do consent and agree, that the Governor of the said Province hath Power, by the advice of his Council, to depute one in his place and Authority, in case of Death or Removal, to continue until our further order, unless we have commissionated one before."

"Item. That he hath likewise Power to make choice of and to take to him six Councellors at least, or twelve at most, or any even Number between six and twelve, with whose Advice and Consent, or with at least three of the six, or four of a greater Number (all being summon'd) he is to govern according to the Limitations and Instructions following, during our Pleasure."

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"ITEM. That all Persons that are or shall become Subjects of the KING of *England*, and Swear, or Subscribe Allegiance to the KING, and faithfullness to the Lords, shall be admitted to Plant and become Freemen of the said Province, and enjoy the Freedoms and Immunities hereafter express'd until some stop or contradiction be made by us the Lords, or else the Governor, Council and Assembly, which shall be in Force until the Lords see cause to the contrary: Provided that such stop shall not any ways prejudice the right or continuance of any Person that have been receiv'd before such stop or Orders come from the General Assembly."

"ITEM. That no person qualified as aforesaid within the said Province, at any Time shall be any ways molested, punished, disquieted or called in question for any Difference in opinion or Practice in matter of Religious Concernments, who do not actually disturb the civil Peace of the said Province; but that all and every such Person and Persons may from time to time, and at all Times, freely and fully have and enjoy his and their Judgments and Consciences in matters of Religion throughout the said Province, they behaving themselves peaceably and quietly, and not using this Liberty to Licentiousness, nor to the civil Injury or outward disturbance of others; any Law, Statute or Clause contained or to be contained, usage or custom of this Realm of *England*, to the contrary thereof in any wise notwithstanding."

"ITEM. That no pretence may be taken by our Heirs or Assigns for or by reason of our right of Patronage and Power of Advouson, granted by his Majesty's Letter's Patents, unto his Royal Highness JAMES Duke of *York*, and by his said Royal Highness unto us, thereby to Infringe the general Clause of Liberty of Conscience, aforementioned: WE do hereby grant unto the General Assembly of the said Province, Power by Act to constitute and appoint such and so many Ministers or Preachers as they shall think fit, and to establish their Maintenance, giving liberty beside to any Person or Persons to keep and maintain what Preachers or Ministers they please."

"ITEM. That the Inhabitants being Freemen, or chief agents to others of the Province aforesaid; do as soon as this our commission shall arrive, by virtue of a writ in our names by the Governor to be for the present (until our seal comes) sealed and signed, make choice of twelve deputies or representatives from amongst themselves; who being chosen are to join with the said Governor and council for the making of such laws, ordinances and constitution as shall be necessary for the present

good and welfare of the said Province. But so soon as parishes, divisions, tribes and other distinctions are made, that then the inhabitants or freeholders of the several respective parishes, tribes, divisions and districtions aforesaid, do by our writts, under our seals, (which we ingage, shall be in due time issued) annually meet on the first day of *January*, and choose freeholders for each respective division, tribe or parish to be the deputies or representatives of the same: which body of representatives or the major part of them, shall, with the Governor and council aforesaid, be the General Assembly of the said Province, the Governor or his deputy being present, unless they shall willfully refuse, in which case they may appoint themselves a president, during the absence of the Governor or the deputy Governor.

"Which ASSEMBLY's are to have Power, First. To appoint their own time of meeting and to adjourn their sessions from time to time to such times and places as they shall think convenient; as also to ascertain the number of their quorum; *provided* that such numbers be not less than the third part of the whole, in whom (or more) shall be the full power of the General Assembly."

"II. To enact and make all such laws, acts and constitutions as shall be necessary for the well government of the said Province, and them to repeal: *provided*, that the same be consonant to reason, and as near as may be conveniently agreeable to the laws and customs of his Majesty's kingdom of *England: provided also*, that they be not against the interest of us the Lords Proprietors, our heirs or assigns, nor any of those our concessions, especially that they be not repugnant to the article for liberty of conscience above mentioned: which laws so made shall receive publication from the Governor and council (but as the laws of us and our General Assembly) and be in force for the space of one year and no more, unless contradicted by the Lords Proprietors, within which time they are to be presented to us, our heirs, &c. for our ratification; and being confirmed by us, they shall be in continual force till expired by their own limitation, or by act of repeal in like manner to be passed (as aforesaid) and confirmed."

"III. By act as aforesaid, to constitute all courts, together with the limits, powers and jurisdictions of the same; as also the several offices and number of officers belonging to each court, with their respective salaries, fees and perquisites; their appelations and dignities, with the penalties that shall be due to them, for the breach of their several and respective duties and trusts."

"IV. By act as aforesaid, to lay equal taxes and assessments, equally to raise moneys or goods upon all lands (excepting the lands of us the Lords Proprietors before settling) or persons within the several precincts, hundreds, parishes, manors, or whatsoever other divisions shall hereafter be made and established in the said Province, as oft as necessity shall require, and in such manner as to them shall seem most equal and easy for the said inhabitants; in order to the better supporting of the publick charge of the said Government, and for the mutual safety, defence and security of the said Province."

"V. By act as aforesaid, to erect within the said Province, such and so many manors, with their necessary courts, jurisdictions, freedoms and privileges, as to them shall seem meet and convenient: As also to divide the said Province into hundreds, parishes, tribes, or such other divisions and districtions, as they shall think fit; and the said divisions to distinguish by what names we shall order or direct; and in default thereof, by such names as they please: As also in the said Province to create and appoint such and so many ports, harbours, creeks, and other places for the convenient lading and unlading of goods and merchandizes, out of ships, boats and other vessels, as shall be expedient; with such jurisdictions, privileges and francheses to such ports, &c. belonging, as they shall judge most conducing to the general good of the said Plantation or Province."

"VIII. By act (as aforesaid) to give all strangers, as to them shall seem meet, a naturalization, and all such freedoms and privileges within the said Province as to his Majesty's subjects do of right belong, they swearing or subscribing as aforesaid; which said strangers, so naturalized and privileged shall be in all respects accounted in said province, as the King's natural subjects."

"IX. By act (as aforesaid) to prescribe the quantity of land which shall be from time to time, allotted to every head, free or servant, male or female, and to make and ordain rules for the casting of lots for land and the laying out of the same; PROVIDED, that they do not in their prescriptions exceed the several proportions which are hereby granted by us to all persons arriving in the said Province or adventuring thither."

"X. The General Assembly by act, as aforesaid, shall make provision for the maintenance and support of the Governor and for the defraying of all necessary charges for the government; as also that the constables of the said Province shall collect the Lords rent, and shall

pay the same to the receiver that the LORDS shall appoint to receive the same; unless the General Assembly shall prescribe some other way whereby the LORDS may have their rents duly collected, without charge or trouble to them."

"XI. Lastly to enact, constitute and ordain all such other laws, acts and constitutions as shall or may be necessary for the good prosperity and settlement of the said Province excepting what by these presents is excepted, and conforming to the limitations herein expressed."

"THE GOVERNOR IS WITH HIS COUNCIL BEFORE EXPRESS'D. First. To see that all courts establish'd by the laws of the General Assembly, and all ministers and officers, civil and military, do and execute their several duties and offices respectively, according to the laws in force; and to punish them for swerving from the laws, or acting contrary to their trust, as the nature of their offences shall require."

"II. According to the constitution of the General Assembly, to nominate and commissionate, the several judges, members and officers of courts, whether magistratical or ministerial and all other civil officers, coroners, &c. and their commissions, powers and authority to revoke at pleasure: *provided*, that they appoint none but such as are freeholders in the Province aforesaid, unless the General Assembly consent."

"III. According to the constitution of the General Assembly, to appoint courts and officers in cases criminal; and to impower them to inflict penalties upon offenders against any of the laws in force in the said Province, as the said laws shall ordain; whether by fine, imprisonment, banishment, corporal punishment, or to the taking away of member or life itself if there be cause for it."

"VIII. To act and do all other things that may conduce to the safety, peace and well-government of the said Province, as they shall see fit; so as they be not contrary to the Laws of said Province."

"FOR THE BETTER SECURITY OF THE PROPERTIES OF ALL THE INHABITANTS. First. They are not to impose or suffer to be imposed, any tax, custom, subsidy, tallage, assessment, or any other duty whatsoever upon any colour or pretence, upon the said Province and inhabitants thereof, other than what shall be imposed by the authority and consent of the General Assembly, and then only in manner as aforesaid."

"II. They are to take care that lands quietly held, planted and possessed seven years, after its being duly survey'd by the Surveyor

General, or his order, shall not be subject to any review, re-survey or alteration of bounders, on what pretence soever by any of us, or by any officer or minister under us."

"III. They are to take care that no man, if his cattle stray, range or graze on any ground within the said Province, not actually appropriated or set out to particular persons, shall be lyable to pay any trespass for the same, to us, our heirs or executors: PROVIDED, that custom of commons be not thereby pretended to, nor any person hindered from taking up, and appropriating any lands so grazed upon: And that no person doth purposely suffer his cattle to graze on such lands.

"AND THAT THE PLANTING OF THE SAID PROVINCE MAY BE THE MORE SPEEDILY PROMOTED."

"I. We do hereby grant unto all persons who have already adventured to said Province of *New Caesarea* or *New Jersey*, or shall transport themselves, or servants, before the *first* day of *January*, which shall be in the year of our Lord *one thousand six hundred sixty-five*, these following proportions, viz.: To every freeman that shall go with the first Governor, from the port where he embarques, or shall meet him at the rendezvous he appoints, for the settlement of a plantation there, arm'd with a good musket, bore twelve bullets to the pound, with ten pounds of powder, and twenty pounds of bullets with bandiliers and match convenient, and with six months provision for his own person arriving there, one hundred and fifty acres of land English measure; and for every able servant that he shall carry with him, arm'd and provided as aforesaid, and arriving there, the like quantity of one hundred and fifty acres English measure: And whosoever shall send servants at that time, shall have for every able man servant he or she shall send, armed and provided as aforesaid, and arrive there, the like quantity of one hundred and fifty acres; And for every weaker servant, or slave, male or female, exceeding the age of fourteen years, which any one shall send or carry, arriving there, seventy five acres of land: And for every Christian servant, exceeding the age aforesaid, after the expiration of their time of service, seventy five acres of land for their own use."

"II. ITEM. To every master or mistress that shall go before the first day of *January*, which shall be in the year *one thousand six hundred sixty-five;* one hundred and twenty acres of land. And for every able man servant, that he or she shall carry or send, arm'd and provided as aforesaid, and arriving within the time aforesaid, the like quantity of

one hundred and twenty acres of land: And for every weaker servant or slave, male or female, exceeding the age of fourteen years, arriving there, sixty acres of land: And to every Christian servant to their own use and behoof sixty acres of land."

"III. ITEM. To every free man and free woman that shall arrive in the said Province, arm'd and provided as aforesaid, within the second year, from the first day of *January* 1665 to the first day of *January* one thousand six hundred sixty-six, with an intention to plant, ninety acres of land English measure: And for every man servant that he or she shall carry or send, armed and provided as aforesaid, ninety acres of land of like measure."

"IV. ITEM. For every weaker servant or slave, aged as aforesaid, that shall be so carried or sent thither within the second year, as aforesaid, forty five acres of land of like measure: And to every Christian servant that shall arrive the second year, forty five acres of land of like measure, after the expiration of his or their time of service, for their own use and behoof."

"AND THAT THE LANDS MAY BE THE MORE REGULARLY LAID OUT AND ALL PERSONS THE BETTER ASCERTAIN'D OF THEIR TITLE AND POSSESSION."

"III. ITEM. We do also grant convenient proportions of land for highways and for streets, not exceeding one hundred foot in breadth in cities, towns and villages, &c. and for churches, forts, wharfs, kays, harbours and for publick houses; and to each parish for the use of their ministers two hundred acres, in such places as the General Assembly shall appoint."

"IV. ITEM. The Governor is to take notice, that all such lands laid out for the uses and purposes aforesaid in the next preceding article, shall be free and exempt from all rents, taxes and other charges and duties whatsoever, payable to us, our heirs or assigns."

"V. ITEM. That in laying out lands for cities, towns, vilages, boroughs, or other hamblets, the said lands be divided into seven parts: one seventh part whereof to be by lot laid out for us, and the rest divided to such as shall be willing to build thereon, they paying after the rate of one penny or half-penny per acre (according to the value of the land) yearly to us, as for their other lands as aforesaid: which said lands in cities, towns, &c. is to be assured to each possessor by the same way and instrument as is before mentioned."

VI. ITEM. That all rules relating to the building of each street, or quantity of ground to be allotted to each house within the said re-

spective cities, boroughs and towns, be wholly left by act as aforesaid, to the wisdom and discretion of the General Assembly."

"VII. ITEM. That the inhabitants of the said Province have free passage thro' or by any seas, bounds, creeks, rivers or rivulets, &c. in the said Province, thro' or by which they must necessarily pass to come from the main ocean to any part of the Province aforesaid."

"VIII. Lastly. It shall be lawful for the representatives of the Freeholders, to make any address to the Lords touching the Governor and Council, or any of them, or concerning any grievances whatsoever, or for anything they shall desire, without the consent of the Governor and Council or any of them. GIVEN under our seal of our said Province the tenth day of *February* in the year of our Lord one thousand six hundred sixty and four."

"JOHN BERKELEY."
"G. CARTERET."

Philip Carteret was the first governor of New Jersey and arrived in 1665, landing at Elizabeth Town, where he found four families already located. While the Dutch ruled in New Netherlands, there was only one governor for the two provinces of New York and New Jersey; in fact, both colonies were then included under the general name of New Netherlands. Carteret brought with him thirty immigrants from England, who, with the four families already there, founded that ancient and venerable town, which at one time was the capital of the province and afterwards became famous in the history of New Jersey. It was named after Lady Elizabeth, the wife of Sir George Carteret, whose name is often mentioned after her husband's death, and is associated with some important events in the future history of the colony. Elizabeth Town has grown from the four houses which formed the settlement when Philip Carteret first saw it, to a city of more than forty-five thousand inhabitants and is now called Elizabeth.

New Jersey was now an independent province, with all the appliances, so far as fertility of soil, salubrity of climate and convenience of position were concerned, for sustaining a large population. It had rulers who were vested with almost royal authority, who had appointed a governor to whom they had delegated a portion of that authority, and he had assumed the reins of government. It had a constitution of great liberality, fully guaranteeing the rights of the colonists and securing their most sacred liberties; it was thus enabled to exercise all the functions of civil authority; but it did not possess all the requisites of a

well equipped and organized state. It had an executive, a chief magistrate called a governor; but it had no legislature, nor any judiciary. Its inhabitants were few in number and found in spots, few and far between, within its borders, and the wants of these inhabitants were commensurate with the paucity of their numbers. They were fighting the stern battle of life for mere existence, with their utmost efforts gaining only a bare subsistence for themselves and their families. The time was coming, and in the near future, when all the component parts of the machinery of government would be needed, but that time was not yet at hand. The people were not yet in a condition that required the protection of a popular legislature; they had little time in that dawn of the history of the State to seek litigation for securing their rights and redressing their wrongs. The process of providing legislation and a judiciary must grow with the growth of the people and the process was necessarily slow and tedious. By the "grants and concessions" a legislature made up of representatives of the people and elected by them; and of the governor and his council, to be composed of six or more, not exceeding twelve, selected by him, was to be organized. It should have power "*to make and enact all such laws, acts and constitutions as shall be necessary for the well government of the said province,*" provided they were consonant to reason, and "*as near as may be conveniently agreeable to the laws and customs of his Majesty's kingdom of England;*" and also provided they were not against the interests of the Lords Proprietors, or their concessions and "*especially that they were not repugnant to the article for liberty of conscience.*" But there was none from whom might then be selected either the legislators for the people, nor the council for the governor, nor were there litigants for any courts which might be organized. Few of the colonists, perhaps none, were fitted by education or mental training for the important duties connected with legislatures and councils. The kind of men to fill these positions had not yet been attracted to the new colony, either by the hope of political advancement or of securing worldly gain, or of obtaining religious tolerance; or by any of those inducements which impel adventurous spirits or men of advanced ideas to seek new climes and untried conditions.

Newark had not yet received its immigration of stern, earnest, substantial Puritans from Connecticut. Perth Amboy was still to be settled; it did not exist, not even on paper; there were no commercial marts, with bright-eyed, keen, bustling merchants, intent upon trade;

no busy workshops, noisy with the hum of industrious workmen; no pushing, thriving manufacturing towns, where artisan and mechanic congregated and all was energy and life; there was no commerce then; there were no manufactures. There were a few Hollanders and with them some Norwegians who had crept over from New Amsterdam, when the Dutch ruled New Netherlands; some Dutch, some English and some Swedes had gone into the southern end of New Jersey; that was all—a mere fringe of population. How came those four families at Elizabeth Town which Governor Carteret found there, and to which he added thirty immigrants, when he landed? It will be remembered that Colonel Nicolls had been appointed governor by the Duke of York over the whole country described in the grant from Charles. He did not know, nor had he heard of the conveyance to Berkeley and Carteret until long after it was made, and until he learned of it, he supposed that his authority extended, as governor, over the whole country given to York. It was his duty to his royal master, as well as his own interest, to use his best endeavor to settle the land. To this end, and while believing himself to be such governor and vested with full authority to do so, he had made some grants of land in New Jersey to actual settlers, among them to these four families at Elizabeth Town. Governor Carteret did not disturb them; it was not for the interest of his superiors, nor of himself, that he should do so.

The plan of subdividing the domain granted to the duke into smaller principalities did not meet with the approval of Governor Nicolls; he remonstrated with his royal master for depriving him of what he considered a vested right and for separating one part of his province from the other; he attempted to show him the loss he had sustained, comparing the fertility of the soil of New Jersey with that of New York and praising the number and size of the rivers in the former province; foreseeing what might result if such a separation should be practically carried out, he predicted the result to the duke and to his grantees; the duke would reap no benefit from the grant from the king; his grantees would never be able to settle their part of the country to their satisfaction nor to receive any return commensurate with their expectations, and they would involve themselves and their heirs in irretrievable ruin by the amount of expense they would find absolutely necessary in providing for the future needs of their province. Of course all these remonstrances were then made too late; the conveyance was already made; Berkeley and Carteret were in actual possession and Nicolls must surrender.

Governor Carteret sent agents into New England and other adjacent colonies and even to the mother country, with copies of the "Grant and Concessions." The liberal provisions of this remarkable document naturally attracted the attention of the restive inhabitants of Connecticut who were chafing under the rule of the ungodly who had invaded their settlements, had made their wicked assaults against God's elect and had abrogated one of their fundamental laws; so, they must seek a shelter elsewhere, the result of which transfer was the foundation of the largest city in New Jersey and one of the largest in the Union, prominent for the great variety and extent of its manufactures.

Newark was settled in 1666 by Puritans who came principally from three places in Connecticut—Guilford, Milford and Brandford. They were joined by a few other religious enthusiasts like themselves from New Haven and other adjacent localities, and they were all actuated by the same ruling purpose. They did not all leave their New England homes together or at the same time; their departures, however, were not many months apart; they were strict in the performance of any duty which they believed incumbent upon them and strangely mingled the severity of the Old Testament requirements with the divine love which Christ, their acknowledged Teacher and Guide, proclaimed as the only true foundation of his kingdom on earth. Tender and loving to wife and children, they demanded from them and from all who were in duty bound to obey them, prompt and implicit obedience to every command. They were merciless to the unrepentant sinner, inflicted the harshest punishment for crime and never forgave those who contemned authority. They claimed to be the saints of Christ's kingdom, and assumed the right to dominate over the lives and opinions of those who dwelt with them, or who sought shelter in their homes or in their community. All must conform to their mode of belief and Christian life. They were bigoted and intolerant, according to the modern notions of intolerance; but it must be remembered that they lived at a time when intolerance was almost universal; when tolerance was the exception to the general rule. They had braved the dangers of the ocean, the privations and hardships of a new life in the midst of a primeval forest, surrounded by savage foes; they had surrendered the delights of civilization and the associations of home and native land so that they might isolate themselves and enjoy their own peculiar notions of religious liberty. Having braved all this with a common purpose, they claimed the right to select from those who

might apply for admission to their community those whom they believed would comply with the rules they had established for their own guidance. In making this claim, they asserted nothing more than what any head of a family, who had established his home and rules for its guidance, might properly demand from any stranger who should seek a permanent shelter under his roof. Impressed with this idea, which was a ruling one with them, they enacted a law in their Connecticut home, that no one, unless he were a member of a Congregational church, should be permitted to vote or hold office. They also provided that only such should be admitted within their colony as land owners who could pass the scrutiny of the town meetings. These laws were annulled, and then, the sterner souls, who believed in such legislation, resolved to seek still another home, where they could enforce this rule to its fullest extent. The "Grants and Concessions" were brought to their notice and they concluded to avail themselves of the offers made therein and find a new home in New Jersey. But their removal from Connecticut was no hasty measure; it was carefully weighed and prayerfully considered. All possible precautions were taken to prevent failure and to learn all the facts which should direct their judgment. So, the Puritans of Milford sent Robert Treat, who, as appears by the records of the time, was their most prominent and reliable man, with some others from adjoining towns, to examine into the condition of affairs as they then existed in the province where such flattering inducements were held out to immigrants to settle. These agents visited Governor Carteret at Elizabeth Town and consulted with him about the place for a settlement and the terms. Their attention was first directed to the land on the east bank of the Delaware River, near the present location of the city of Burlington. That situation, however, was not satisfactory to the prospectors, and they returned to Elizabeth Town and again consulted with the governor. He induced them to examine the land on the Passaic River, north of Elizabeth Town, and after some negotiation, they selected the present site of Newark for their future home. The Hackensack Indians, a broken fragment of the great Lenni Lenape nation, roved over this part of the country and claimed it for their hunting and fishing grounds. Governor Carteret gave Treat and his companions a letter to the chiefs of their tribe to enable them the better to treat with them for the purchasing of the land.

This was in the fall of 1665, and nothing more was done then, so far

as any purchase of the soil was concerned. In May, 1666, the colonists committed themselves, their families, their beloved pastor, their church records and communion service, their deacons, their household goods, to the keeping of some rude vessels of the day, sailed down the Connecticut River into Long Island Sound, out into the East River and to New York Bay, then through the Kill into Newark Bay and up the Passaic River, reaching their appointed destination.

The dangers and privations of this momentous voyage cannot be appreciated in these modern times when the appliances for speedy and comfortable travel are so multiplied. Their wives and children, their old gray-haired men and women, had been subjected to confinement in inconvenient vessels with no comforts and nothing to relieve the tedium of the journey except the slowly shifting landscapes through which they passed. After they had reached their goal and surveyed their promised Canaan, they could well believe their perils were over, their dangers past, and they might hope to rest quietly in their new homes and again raise their Ebenezer. But in this they were sadly disappointed. Mr. Robert Treat, some years afterwards, told the story of what happened to them, and his words will well describe their trials. He said, "But no sooner was the Company present got on the Place and landed some of their goods, than I with some others was by some of the Hackensack Indians, warned off the Grounds and [they] seemed troubled and angry that we landed any of our goods there, tho' first we told them we had the Governor's order; but they replied the land was theirs and it was unpurchased and therefore we put Goods on board the vessels again and acquainted the Governor with the matter." Subsequently peace was restored between the white settlers and the Hackensacks, and the land now occupied by the city of Newark was bought from the aborigines.

These first settlers in Newark were men of substance, considering the times and the circumstances, and brought considerable wealth with them; their minister, the Rev. Abraham Peirson, being rated as the wealthiest man among them.

They first made a purchase from the Indians of the land which extended to the foot of the Orange Mountain, from the Passaic, southward to the lands of Elizabeth Town, and northward to a boundary somewhat indefinitely described. The land thus bought was sufficiently designated, however, so that it is known that it included the modern sites of Newark, Belleville, Bloomfield and the Oranges. The consideration paid to the Indians was "sixty double hands of powder, one

hundred barres of lead, twenty axes, twenty coates, ten guns, twenty pistolls, ten kettles, ten swords, four blankets, four barrels of beere, ten paires of breeches, twenty howes, [hoes?] eight hundred and fifty fathom of wampum, ten ankors of licqueurs, or something equivalent, and three trooper's coates." This purchase by the colonists from the aborigines occasioned thereafter great difficulties between the Lords Proprietors and the inhabitants of Newark; they insisted that as they had been obliged to pay the Indians for the land, they were not bound to pay any rent to the proprietors, and it was many years before the question was finally settled.

Before leaving their Connecticut home, the immigrants made a solemn compact, which was either then or afterwards reduced to writing and signed by them and their associates. This compact played a prominent part in the town's history and was called the "*fundamental agreements.*" Twenty-three signatures of former inhabitants of Brandford were appended to it and undoubtedly before they left Connecticut. Forty-one actual settlers, who were on the ground in the new colony, signed it there. The most of these, if not all, were heads of families, and their names are represented to-day in Newark, with very few, if any exceptions. The agreements were signed at Brandford the 30th of October, 1666, and at Newark on the 24th day of June, 1667.

According to the most reliable accounts that can now be reached, there were about thirty families who thus founded Newark.

At some places, exactly where can only be conjectured, the original colonists met together, at the very beginning of the history of this "*our town on the Passaick,*" and solemnly resolved that "*the aforesaid persons*" from Milford, Guilford and Brandford, "together with their associates, being now accepted of, do make one township, provided they send word so to be any time between this and the last of October next ensuing, according to fundamentals mutually agreed upon, do desire to be of one heart and consent, through God's blessing with one hand they may endeaver the carrying on of spirital concernments as also civil and town affairs according to God and a Godly government, there to be settled by them and their associates." The majority of the "aforesaid persons" referred to in this resolution were in all probability, immigrants from Milford, for, at first, the new settlement was called Milford. Scot's "Model of the Government of the Province of New Jersey," published in 1685, speaks of Newark, "*alias Milford*" and says that it was the most compact town in the province and "has

about 100 families and about 500 inhabitants." It was, however, very early called Newark in the records of the town. Those records, kept by Captain Robert Treat, mention a committee of eleven as being appointed "to order and settle the concernments and people of the place" and that this committee mutually agreed "that the agents from Guilford and Brandford do take up and hold till June in the year one thousand six hundred and sixty-seven." Great care was taken to prevent any persons becoming settlers in "our town upon Passaick River" except those who were of good character and of like religious opinions with themselves, for no one could be admitted unless he "bring due testimonials to the Committee there."

The "Fundamental Agreements" were these:

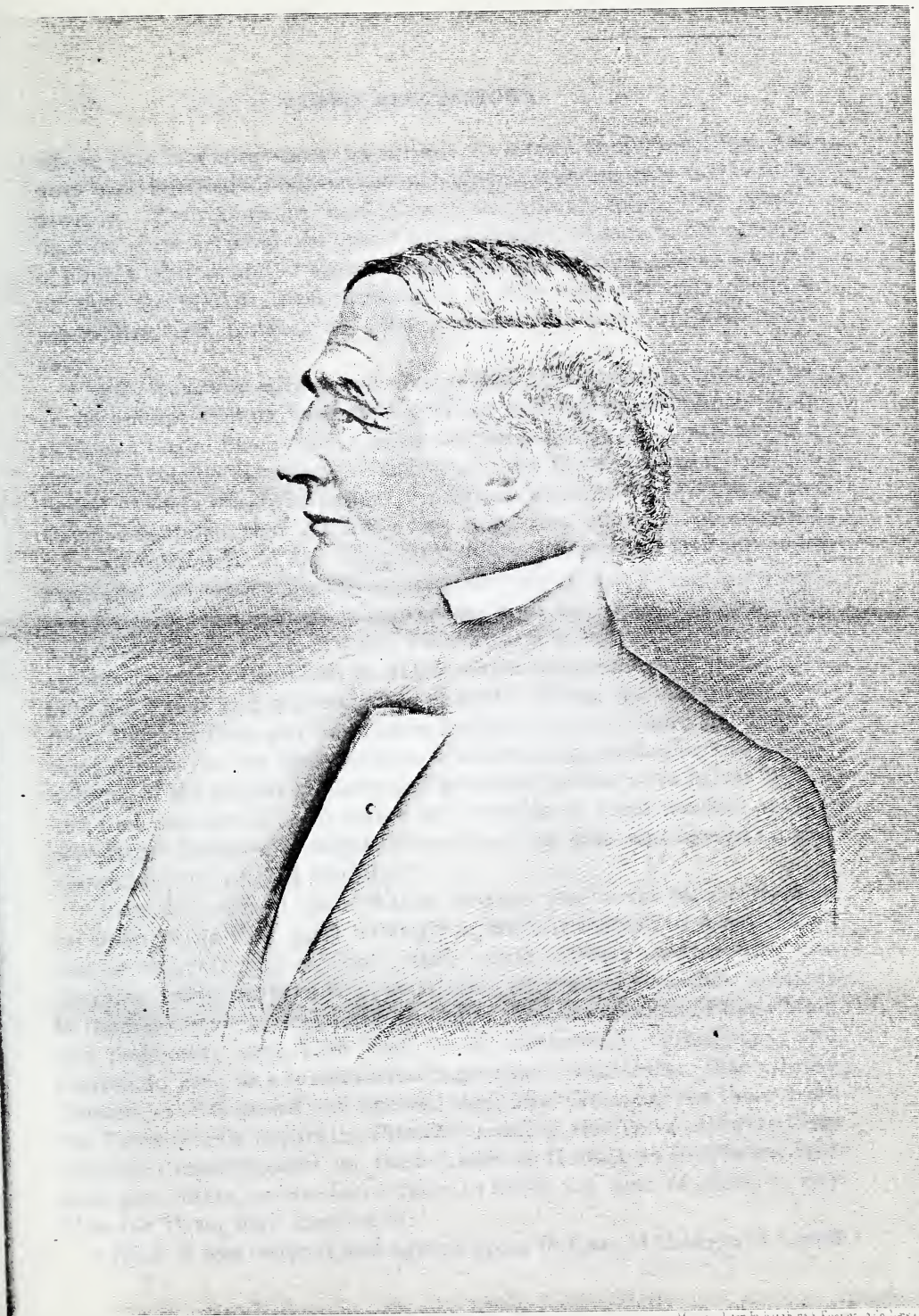
"1st. That none shall be admitted freemen or Burgesses within our Deut. 1-25 Exod. 18-31 Deut. 11, 15 Town upon Passaick River in the Province of New Jersey but such Planters as are members of some or other Congregational Churches, nor shall any but such be chosen to Magistracy or to Carry on any part of Civil Judicature, or as deputies, or assistants, to have power to Vote In establishing Laws and making or Repealing them or to any Chief Military Trust or Office. Nor shall any But such Jerem. 36-21 Church Members have any Vote in such elections; Tho' all others admitted to Be Planters have Right to their proper Inheritance, and do and shall enjoy all other Civil Liberties and Privileges, According to all Laws, Orders, Grants, which are, or hereafter shall be made for this Town.

"2nd. We shall with Care and Diligence provide for the maintenance of the Purity of Religion professed in the Congregational Church. Whereunto subscribed the Inhabitants from Branford."

So here in Newark was established a law of perfect intolerance.

The colonist were a busy people. No drones were permitted in that hive of industry and thrift. It is very much to be regretted that no historian of the day has written of those times; it would be intensely interesting reading for the descendants of the first settlers in Newark. The industrious habits, the sober sedate characteristics, the sensible thrift, the honest economy, the soul-felt enduring piety and the homely virtues of these founders of the great city have survived in many of its residents, who trace their lineage back to such ancestry.

All the public business of the colony for more than one hundred and fifty years was transacted at their town meetings, which were held at several stated times during the year. Officers were regularly appointed,



Henry W. Green

whose duty it was to warn the citizens to attend these meetings, and fines were imposed for non-attendance by those whose duty it was to be present. Their ministers were called; their salaries fixed; their school-masters were selected and their compensation arranged; the erection of church edifices and of school houses was discussed and plans adopted for their erection, at these meetings. At the very first one of these assemblies, held October 30, 1666, a record was made of these utterances:

"Item, it is fully agreed that every Man that comes to be admitted an Inhabitant with us, shall first produce and bring a certificate from the Chief of the Place from whence he comes unless the Town be upon their Knowledge satisfied in and about the Good Carriage and Behavior of them otherwise; then it is agreed upon by a full Vote of the Town assembled, that all and every Man that comes to be received . . . an Inhabitant in our Town on Passaick River, shall first subscribe his Name and declare his assent with the rest of the Town, to all and every one of our fundamental agreements on the other side recorded and here following agreed upon, viz.: That it is fully and unanimously agreed upon as a Condition upon the which every one doth reckon and hold his Lands and accommodations in the Town, viz.: that they will from Time to Time pay or cause to be paid yearly in their full Proportions equally, to the Maintainance & allowance agreed upon for the upholding of the settled Ministry and preaching of the word in our Town, and that was agreed upon before any Division of Land was laid out except Home Lotts—and Eighty Pounds per the year was agreed on and allowed for the present Minister."

"Item, it is agreed upon, that in case any shall come into us or arise up amongst us that shall willingly or wilfully disturb us in our Peace and Settlements, and especially that would subvert us from the true Religion and worship of God, and cannot or will not keep their opinions to themselves or be reclaimed after due Time and means of Conviction and reclaiming hath been used; it is unanimously agreed upon and Consented unto us a fundamental Agreement and Order, that all and Persons so ill disposed and affected shall after Notice given them from the Town quietly depart the Place Seasonably, the Town allowing them valuable Considerations for their Lands or Houses as Indifferent Men shall price them, or else leave them to make the best of them to any Man the Town shall approve of."

"Item, it was ordered and agreed upon, in Case of changes of Lands

or any kind of obligation whatsoever by Gift, Sale, Exchange or otherwise that any new Inhabitant shall arrive or come into Town to inhabit with us; it is agreed and ordered that he or they from Time to Time shall in all respects subscribe and enter into the same engagements as his Predecessors or the rest of the Town have done, before he or they can or shall be accounted Legal Inhabitants in our Town, or have . . . Title to their Lands or Possession therein."

"Item, it is solemnly consented unto and agreed by all the Planters & Inhabitants of the Town of Newark from their settling together at first, and again publickly renewed as their joint Covenant one with another, that they will from Time to Time all submit one to another to be lead, ruled and governed by such Magistrates and Rulers in the Town, as shall be annually chosen by the Friends from among themselves, with such orders and Law whilst they are settled here by themselves as they had in the Place from whence they came, under such Penalties as the Magistrates upon the Nature of the offence shall determine."

Special attention has been given to the history of Newark, not only because that city is the largest and most influential in the State, but, also, because of its exceptional origin, of the peculiar character of its first settlers and of the dominance which these first settlers and their descendants obtained over the civil and judicial interests of the province and State. Before the seventeenth century these energetic men sent forth colonies which founded the towns and villages in their neighborhood. They went towards the mountain and settled in the localities afterwards known as the Oranges, Bloomfield, Montclair, Irvington and other places In the beginning of the eighteenth century, they crossed the Passaic, went over into Morris county and extended themselves, before the first half of the century had passed, into the central part of that county. Wherever they went, they made themselves felt in all religious, governmental and judicial affairs.

The rise of the most, if not all the other large towns and cities of the State was at so late a period that they have not exercised a moulding influence on its governmental policy.

CHAPTER IV.

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It will be remembered that the grant made by Charles II to his brother James, Duke of York, was dated the 12th day of March, 1664, and that on the 2d day of April of the same year, the Duke commissioned Col. Richard Nicholls, governor of the whole domain thus granted. The commission accompanying the appointment of Nicholls is important in the history of New Jersey and its examination will aid greatly in understanding some part of that history; it is, therefore, copied *verbatim et literatim.*

"*James* Duke of *York* and *Albany, Earl of Ulster, Lord High Admiral of England, and Ireland,* &c. Constable of *Dover Castle,* Lord

Warden of the Cinque Ports, and Governor of Portsmouth, &c. Whereas it hath pleased the King's most Excellent Majesty, my Sovereign Lord and Brother, by his Majesty's Letters Patents, bearing Date at Westminster, the 12th Day of March, in the Sixteenth Year of his Majesty's Reign, to give and grant unto me and to my Heirs and Assigns, all that Part of the main Land of New England, beginning at a certain Place called or known by the Name of St. Croix, next adjoining to New Scotland, in America, and from thence extending along the Sea Coast, unto a certain Place called Petaquine, or Pemaquid, and so up the River thereof to the furthest Head of the same, as it tendeth Northwards, and extending from thence to the River of Kinebequi, and so upwards by the shortest Course to the River Canada Northwards; and also all that Island or Islands commonly called by several Name or Names of Matowacks or Long Island, situate, lying and being towards the West of Cape Cod, and the Narrow-Higansets abutting upon the main Land, between the two Rivers there, called or known by the several Names of Connecticut and Hudson's River, together also with the said River called Hudson's River, and all the Land from the West side of Connecticut River, to the East side of Delaware Bay; and also all those several Islands called or known by the Name of Martin's Vineyards, and Nantukes otherwise Nantucket, together with all the Lands, Islands, Soiles, Rivers, Harbours, Mines, Minerals, Quarries, Woods, Marshes, Waters, Lakes, Fishing, Hawking Hunting, and Fowling, and all other Royalties, Profits, Commodities, Heriditaments, to the said several Islands, Lands and Premisses belonging and appertaining, with their and every of their Appurtenances, to hold the same to my own proper use and behoof, with Power to correct, punish, pardon, govern, and rule, the Inhabitants thereof, by my self or such Deputies, Commissioners, or Officers as I shall think fit to appoint, as by his Majesty's said Letters Pattents may more fully appear. And whereas I have conceived a good opinion of the Integrity, Prudence, Ability and fitness of Richard Nicholls, Esq; to be employed as my Deputy there, I have therefore thought fit to constitute and appoint, and I do hereby constitute and appoint him, the said Richard Nicholls, Esq; to be my Deputy Governor within the Lands, Islands and places aforesaid, to perform and execute all and every the Powers which are by the said Letters Patents granted unto me, to be execute by my Deputy, Agent or Assign. TO HAVE AND TO HOLD the said Place of Deputy Governor, unto the said Richard Nicholls, Esq; dur-

ing my Will and Pleasure only, hereby willing and requiring all and every the Inhabitants of the said Lands, Islands and places to give Obedience to him the said Richard Nicholls, in all Things according to the Tenor of his Majesty's said Letters Patents, and the said Richard Nicholls, Esq; to observe follow and execute such Orders and Instructions as he shall from Time to Time receive from my self. GIVEN under my Hand and Seal at Whitehall, this second day of April, in the Sixteenth Year of the Reign of our Sovereign Lord Charles the Second, by the Grace of God, King of England, Scotland, France, and Ireland, &c. Annoque Domini, 1664.

"JAMES,

"By Command of his Royal Highness

"W. COVENTRY."

There is no possible manner in which the terms of this commission can be misunderstood; it is absolute in its grants of power and undoubtedly invested Colonel Nicholls with full authority to act as deputy governor, under the Duke, over the whole of the country granted to York, during the "will and pleasure" of the grantor. Neither could there be any possible doubt that so long as Nicholls continued governor, his lawful acts, within the scope of his authority as such governor, would have been valid and binding, to all intents and purposes, on his principal and upon all persons who submitted to his authority. Neither could there be any doubt that his office could only be terminated by the Duke giving public notice, in some lawful manner, that he withdrew the right from Nicholls. He was to hold that office during the Duke's "will and pleasure" and all "the inhabitants were ordered to render obedience to him" in all things according to the "tenor of his majesty's Letters Patent."

It would be rank injustice if the Duke were to make the grant to Colonel Nicholls, appointing him governor, require the settlers to obey him and then repudiate his acts, unless he should first give notice of the termination of his right to act in such a manner that any one affected by the action of the governor should receive such notice.

Under the circumstances of the case, it was not only the privilege of Nicholls to use his office for his own emolument, but it was also binding on him, as a duty, that he should do all in his power to advance the interest of his patron; provided, of course, that he acted strictly within the lines of authority granted to him. His power, as governor, extended over a large territory, but it had no inhabitants, and no income could

be returned from it to the Duke, until it became settled. So, Nicholls instantly issued a proclamation, in print, which was scattered broadcast over the settled portions of Northern North America. It cannot now be ascertained what was the exact date of this proclamation, but it was undoubtedly issued in 1664 and probably before the month of September of that year.

On the 26th day of September, 1664, six inhabitants of Jamaica, "commonly so called," on Long Island, humbly petitioned "*the Right Honorable Colonel Nicholls, Esq., Governor of New York*," &c., to grant them "*liberty to purchase and settle a parcel of land to improve our labor upon in the River Cull, before mentioned*," that is, the River Cull or Kill Van Cull, near Elizabeth Port. The governor acted promptly upon this petition, for four days afterwards, on the 30th of September, he was pleased graciously to grant its prayer.

By the proclamation already mentioned, Nicholls made liberal offers to settlers within the bounds of his province without specifying any particular part of it, except that the land he intended first to be planted was that lying west of the Hudson's River, at or near the "*Sopes.*" What is meant by this word "*Sopes*" is not known. It is, however, certain that the land most affected by the proclamation was that contained within the bounds of New Jersey. The terms offered were these:

"The Conditions for new Planters in the Territories of his Royal Highness the Duke of York."

"The Purchases are to be made from the Indian Sachems, and to be recorded before the Governor."

"The Purchasers are not to pay for their Liberty of Purchasing to the Governor."

"The Purchasers are to set out a Town and inhabit together."

"No purchaser shall at any Time contract for himself, with any Sachem, without consent of his Associates, or special Warrant from the Governor."

"The Purchasers are free from all manner of Assessments or Rates for five Years, after their Town Platt is set out; and when the five Years are expired, they shall only be liable to the publick Rates and Payments, according to the Custom of other Inhabitants both English and Dutch."

"All lands thus purchased and possessed, shall remain to the Purchasers, and their Heirs, as free Lands to dispose of as they Please."

"In all Territories of his Royal Highness, Liberty of Conscience is allowed, provided such Liberty is not converted to Licentiousness, or the Disturbance of others in the exercise of the Protestant Religion."

"The several Townships have Liberty to make their particular Laws, and deciding all Small Causes within themselves."

"The lands which I intend shall be first Planted, are those upon the West side of Hudson's River, at or adjoining to the Sopes; but if any Number of Men sufficient for two or three or more Towns, shall desire to Plant upon any other Lands, they shall have all due Encouragement proportionable to their Quality and undertakings."

"Every Township is obliged to pay their Minister according to such Agreement as they shall make with them, and no Man to refuse his Proportion, the Minister being elected by the Major Part of the Householders, Inhabitants of the Town."

"Every Township hath the free choice of all the Officers both Civil and Military, and all Men who shall take the Oath of Allegiance and are not Servants, or Day Labourers, but are admitted to enjoy a Town Lot, are esteemed free Men of the Jurisdiction, and cannot forfeit the same without due Process in Law." "R. NICHOLLS."

By this proclamation, settlers were invited to secure land within the province over which Nicholls was governor; certain rights were promised; certain immunities were guarantied to these settlers. The grants made by Nicholls were afterwards attacked in the most strenuous manner possible; their validity was questioned and it was argued with great vehemence that if any one of these six petitioners from Jamaica, or if all of them together, or if any other person, made purchases from the Indian sachems and these Indian titles had been confirmed by Nicholls, and they had "*set out a town and lived together*," expending their money and giving their time and labor for those purposes, without notice that it was no longer "the will and pleasure" of the Duke that Nicholls should act as governor, no court of justice could have decided that they should forfeit the land they had thus acquired, or that they should lose a single one of the rights or immunities promised to them by the proclamation of Governor Nicholls. This seems very plausible, and the arguments, according to modern notions of equity, would have great force with the Court of Chancery. There were then no offices of record, where deeds could be recorded and thus notice given to the public of all matters affecting the titles to land. The land was unoccupied, except by bands of roving Indians, so that no

notice was given by possession to put purchasers on their inquiry. Let the decision be for either party, in case of a contest, wrong would be done to the party defeated. The grants made by Nicholls were sub sequent to the deed to Berkeley and Carteret but neither he nor his grantees knew of the existence of that deed On the other hand, the Duke had no title to the land which Nicholls granted in New Jersey and the right of Nicholls to make grants ceased when York conveyed to Berkeley and Carteret. But there were two certain equities created by the grants from Nicholls: One—York should have repaid any of the grantees of Nicholls for any outlay they had made and for the damage sustained; and the other—that Berkeley and Carteret should have confirmed the grants made by Nicholls in the most equitable manner. The Lords Proprietors appreciated this equitable claim and in many instances confirmed the grants of Governor Nicholls upon the easiest terms. This was especially the case with the four families and their associates, whom Philip Carteret found living at Elizabeth Town when he assumed his governorship.

The date of the release from the Duke to Berkeley and Carteret was the 24th day of June, 1664. It cannot now be determined when or how Nicholls first received notice of that release. It was most probably in the year 1665, but at what precise date, cannot be stated. It was certainly after the time when the petition from the six men from Jamaica was received and its prayer granted. It will be remembered that reference has been made to a letter of remonstrance written by Nicholls to York; that letter was written in 1665, and was probably the result of the indignant feelings aroused by the first intimation received by him of the Duke's release to Berkeley and Carteret. It would have been natural for him to have given vent at once to his indignation by a protest to his grantor. The whole tone of the letter denotes that it was the first communication from him to the Duke about the release. In that letter, he objected strongly to the action of the Duke in dividing his domain by granting part of it to Berkeley and Carteret and protested most energetically against his being deprived of a part of his government.

It is not probable that the settlers who were induced by the promises made to them by the proclamation to settle in New Jersey, ever knew of the release until they themselves had actually made settlements and had become inhabitants of that province. Three of these six men from Jamaica, in pursuance of the license from Nicholls purchased a large

tract of land from the Indians, thus described: "One Parcel of Land Bounded on the South by a River commonly called the Raritons River, and on the East by the River which Parts Staten-Island and the Main, and to run Northward up after Cull-Bay, till we come at the first River which sets Westwards up after Cull Bay, aforesaid, and to run West into the Country twice the Length as it is broad from the North to the South of the aforemention'd Bounds."

This deed was dated the 28th day of October, 1664, was signed by Mattano, Manamowaone and Cowescomen, three Indian chiefs, described in the deed as being of Staten Island and who all signed by making their marks. The land conveyed by this deed undoubtedly included Elizabeth Town and an extensive country surrounding. The consideration for this conveyance was "Twenty fathoms of trading cloth, two made coats, two guns, two kettles, ten Barres of lead; twenty handfuls of powder," delivered at the time of the execution of the deed and "four hundred fathom of white wampum," to be paid after a year's expiration from the day when entry should be made upon the land by the grantees. This prospective payment was afterwards made and fully receipted for by the representatives of the Indian grantors. On the 1st day of December, 1664, Governor Nicholls, under his hand and seal confirmed this Indian title, not to the three original purchasers from the aborigines, but only to two of them and to two others, one of whom is described as being of New York, presumably of the city, and the other two of North Hampton. The deed from Nicholls was not only a confirmation of the title from the sachems, but it also contained a conditional conveyance in fee to these four persons, of this character:

"TO HAVE AND TO HOLD the said Lands and Appurtenances to the said Capt. John Baker, John Ogden, John Baily, and Luke Watson, and their Associates, their Heirs, Executors, Administrators and Assigns for ever, rendering and paying Yearly unto his Royal Highness the Duke of York, or his Assigns, a certain Rent, according to the Customary rate of the Country for new Plantations, and doing and performing such Acts and Things as shall be appointed by his said Royal Highness, or his Deputy. And the said Capt. John Baker, John Ogden, John Baily, and Luke Watson, and their Associates, their Heirs, Executors, Administrators and Assigns, are to take Care and Charge, of the said Lands and Premises, that People be carried there with all convenient speed, for the settling of Plantations thereon, and that none

have Liberty so to do, without the Consent and Approbation of the said Capt. John Baker, John Ogden, John Baily, and Luke Watson, and their Associates, except they shall neglect their Planting thereof, according to the true intent and meaning of these presents. And I do likewise promise and grant that the Persons so Inhabitting and Planting the Lands and Premisses aforesaid, shall have equal Freedom, Immunities and Privileges with any of his Majesty's Subjects in any of his Colonies of America. And the said Capt. John Baker, John Ogden, John Baily, and Luke Watson and their Associates have Liberty to Purchase of the Natives, (or others who have the Propriety thereof) as far as Snake Hill to the End and purposes aforesaid."

In this deed Nicholls described himself as governor, under his Royal Highness, Duke of York, of all his "*territories in America.*" He also described the lands bought of the Indians as being within his government and gives permission to his grantees to purchase from the natives, other lands in New Jersey, as far as Snake Hill. When Governor Nicholls made that deed he must have believed himself to be governor of New Jersey, as well as of New York, and it cannot be imagined that he then had heard of the release to Berkeley and Carteret. Nor could the Duke have given any notice of his withdrawal from him of his right to act as governor, and the plain inference is that these acts of Nicholls were to a certain extent binding on York and on Berkeley and Carteret.

But Nicholls made other conveyances besides the Elizabeth Town tract, one of which was much more important as it conveyed a whole county, or what was afterwards called Monmouth County, besides parts of others. This was done by a deed, or what was then called Letters Patent, dated the 8th day of April, 1665. This deed did not lead to such results as did that for the Elizabeth Town tract, but it is worthy of notice as it serves to elucidate a very vexed question which afterwards disturbed the peace of the province and involved the interests of the Lords Proprietors and of the citizens. It is called the Monmouth Patent. It suggests upon its face the object of its execution. It is important, also, in another respect; it evinces the great desire which the Duke and his deputy governor had to induce immigration into New Jersey, and that, to succeed in procuring that immigration the Duke, although his leaning toward to Romish church was pronounced, was willing to sacrifice his religious prejudices to secure his own aggrandizement. It shows further that there was a growing

tendency on the part of rulers to recognize the right of the ruled to choose their own religion and to worship God in accordance with their own religious views. In this Letters Patent there is also recognized the right of the people resident within the granted country to institute courts and to make laws. The following is a copy of that instrument.

"To All to whom these Presents shall come. I, Richard Nicholls, Esq; Governor under his Royal Highness the Duke of York, of all his Territories in America send Greeting. Whereas there is a certain Tract or Parcel of Land within this Government, lying and being near Sandy Point, upon the Main; which said parcel of Land hath been with my Consent and Approbation bought by some of the Inhabitants of Gravesend, upon Long-Island, of the Sachems, (chief Proprietors thereof) who before me have acknowledged to have received Satisfaction for the same, to the end the said Land may be planted, manured, and inhabited, and for divers other good Causes and Considerations, I have thought fit to give, confirm and grant, and by these Presents do give, confirm and grant unto William Goulding, Samuel Spicer, Richard Gibbons, Richard Stout, James Grover, John Bown, John Tilton, Nathaniel Silvester, William Reape, Walter Clark, Nicholas Davis, Obadiah Holmes, Patentees, and their Associates, their Heirs, Successors, and Assigns, all that Tract and Part of the main Land, beginning at a certain Place commonly called or known by the Name of Sandy Point, and so running along the Bay West North West, till it comes to the Mouth of the Raritans River, from thence going along the said River to the Westermost Part of the certain Marsh Land, which divides the River into two Parts, and from that Part to run in a direct South West Line into the Woods Twelve Miles, and then to turn away South East and by South, until it falls into the main Ocean; together with all Lands, Soils, Rivers, Creeks, Harbours, Mines, Minerals, (Royal Mines excepted) Quarries, Woods, Meadows, Pastures, Marshes, Waters, Lakes, Fishings, Hawkings, Huntings and Fowling, and all other Profits, Commodities, and Hereditaments to the said Lands and Premises belonging and appertaining, with their and every of their appurtenances and of every Part and Parcel thereof, TO HAVE AND TO HOLD, all and singular the said Lands, Hereditaments, and Premisses with their and every of their Appurtenaces hereby given and granted, or herein before mentioned to be given and granted to the only proper Use and Behoof of the said Patentees and their Associates, their Heirs, Successors and Assigns forever, upon such Terms and Conditions as

hereafter are expressed, that is to say, that the said Patentees, and their Associates, their Heirs or Assigns shall within the space of three Years, beginning from the Day of the Date hereof, manure and plant the aforesaid Land and Premisses, and settle there one Hundred Families at the least; in consideration whereof I do promise and grant that the said Patentees and their Associates, their Heirs, Successors and Assigns, shall enjoy the said Lands and Premisses, with their Appurtenances, for the Term of seven Years next to come after the Date of these Presents, free from Payments of any Rents, Customs, Excise, Tax or Levy whatsoever: But after the Expiration of the said Term of Seven Years, the Persons who shall be in the Possession thereof, shall pay after the same Rate, which others within this his Royal Highnesses Territories shall be obliged unto. And the said Patentees and their Associates, their Heirs, Successors and Assigns shall have free leave and liberty to erect and build their Towns and Villages in such Places, as they in their Discretions shall think most convenient, provided that they associate themselves, and that the Houses of their Towns and Villages, be not too far distant and scattering one from another; and also they make such Fortifications for their Defence against an enemy as may seem needful. And I do likewise grant unto the said Patentees, and their Associates their Heirs, Successors and Assigns, and unto any and all other Persons, who shall Plant and Inhabit in any of the Land aforesaid, that they shall have free Liberty of Conscience without any Molestation or Disturbance whatsoever in their way of Worship. And I do further grant unto the aforesaid Patentees, their Heirs, Successors and Assigns, that they shall have Liberty to elect by the Vote of the Major Part of the Inhabitants, five or seven other Persons of the ablest and discretest of the said Inhabitants or a greater Number of them (if the Patentees, their Heirs, Successors or Assigns shall see cause) to join with them, and they together, or the Major Part of them, shall have full Power and Authority to make such peculiar prudential Laws and Constitutions amongst the Inhabitants for the better and more orderly governing of them, as to them shall seem meet; provided they be not repugnant to the publick Laws of the Government; and they shall also have Liberty to try all Causes and Actions of Debt and Trespass arising amongst themselves, to the Value of Ten Pounds, without Appeal, but that they remit the hearing of all Criminal Matters to the Assizes of New York. And furthermore I do promise and grant unto the Patentees, and their Associates aforementioned, their Heirs, Suc-

cessors and Assigns that they shall in all Things have equal privileges, Freedom and Immunities with any of his Majesty's Subjects within this Government, their Patentees and their Associates, their Heirs, Successors and Assigns rendering and paying such Duties and Acknowledgements as now are, or hereafter shall be constituted and established by the Laws of this Government, under the Obedience of his Royal Highness, his Heirs and Successors, provided they do no way infringe the Privileges above specified. Given under my Hand and Seal, at Fort James in New-York, on Manhatans-Island, the 8th Day of April in the 17th Year of the Reign of our Sovereign Lord Charles the Second, by the Grace of God, of England, Scotland, France and Ireland, King, Defender of the Faith, &c. and in the Year of our Lord God, 1665.

"RICHARD NICHOLLS."

This deed seems to have been recorded or in some manner preserved in a public office, as, at its end is a memorandum that it is "*entered in the office of record in New York the day and year above written.*" "*Mattias Nicholls, Secretary.*"

The description of the country intended to be conveyed by this Letters Patent is indefinite and quite unsatisfactory. It begins at Sandy Point and runs northwest along the bay to the north of Raritan River. If by Sandy Point is meant what is now known as Sandy Hook, and probably that is the meaning, it will be difficult to reconcile the description with the actual facts. The course from Sandy Hook could not be northwest *along* the bay, but would run across the waters of what is now known as the Lower and Raritan Bays. But the general course of the shore of Lower and Raritan Bays, which are continuous, is northwest from the narrow tongue of land at the head of which is Sandy Hook. The second course is easily discernible; it is along the river undoubtedly until it strikes the union of the north and south branches; and the third and fourth courses are consistent with the state of things as they now exist. If this view of the description be correct, then it comprises the whole of Monmouth and Ocean and parts of the modern counties of Middlesex and Mercer.

This particularity in describing these various grants of land in New Jersey has been adopted for the purpose of showing with some certainty the origin of title to real estate in that province. In the early history of the country land was the only possession of the settlers; there were no manufactures; not much trade; most, if not all of it, consisted

in bartering the products of the soil for the absolute necessities of life. It was therefore of prime importance to the immigrants that their land should be assured to them by perfect titles.

The origin of these titles was fourfold: First: That derived from the aborigines. At first blush, this would appear to be the very best, and it would seem from the care which Governor Nicholls and the Lords Proprietors took to secure the extinguishment of the aboriginal title, that they deemed it important that the land should be bought from the Indians. When Newark was settled by immigrants from Connecticut, although Governor Carteret, representing Berkeley and Carteret, claimed that their title was paramount, he recommended to the settlers that they should buy first from the Hackensacks, and aided them in making the purchase. His object undoubtedly was to secure any interest which that tribe might have in the land the new settlers purposed to occupy. It is, perhaps, true that these negotiations with the Indians in which the governor took so prominent a part, were suggested and entered into with a desire to maintain friendly relations with the aborigines and to secure their good will. It cannot, however, be questioned that there was a strong determination on the part of the grantees of the Duke of York to extinguish whatever right the aboriginal owners of the soil might have. But in what did that right consist? What kind of an estate did they really possess in the land? Was it an estate in fee? Was it an estate of mere possession? Or what was it? They were here in possession in a certain manner when the Europeans first came, and had always so held it, so far as is known, and their right had never been disputed; there was, in fact, none to dispute it. But this possession had only been partial and was never continuous; they were nomads, wandering from place to place, obtaining their livelihood by hunting and fishing. They did, occasionally, settle in small villages, erecting their temporary lodges only for a time, the length of which depended upon their real or fancied needs; sometimes cultivating, in the rudest manner, a field here and there, raising scanty crops of maize and pumpkins. They were savages, barbarous, uncivilized, lawless, constantly at war among themselves. Their possession never extended to the whole of the country; really only to a very small portion of it. Great forests, large tracts were never occupied. This was the title the aborigines had to land in North America. Undoubtedly they had some estate, and it was well enough for the Europeans to secure it, however slight it might be. They came here the

pioneers of civilization; they brought with them law, order, Christianity and all the elements for securing that civilization. The savage must yield to the new comers and either become amalgamated or give place to civilized man.

There was a very serious difficulty connected with these Indian titles, which could not be remedied. The evidence of any grant made by them was in the form of a deed executed by some few men supposed to be their chiefs. The land, if belonging to any of the aborigines, was owned by the whole tribe as tenants in common, and any conveyance which could be recognized as a legal one should be executed by the whole tribe, every man signing the deed. But this was impracticable, under the circumstances, so a few of them signed the deeds and made their marks. But the pertinent question might be put, by what authority did these few undertake to convey land which was owned by the whole body? It is not at all probable that there was any rule or law or custom of such controlling force as would enable a few to bind the whole tribe. In some instances, rare, it is true, but enough to show how uncertain these Indian deeds could be, the same land was conveyed to two or more grantees by different deeds executed by the same chief. There seemed to be a desire on the part of all Europeans who claimed any right in land in New Jersey, no matter how that right might arise, to extinguish the Indian titles. The Dutch, at first, did not appear to recognize the advisability of this plan, but took possession without acknowledging the right of the savages. But very early after their first settlement they changed their practice and purchased direct from the Indians. In this way several thousand acres of land in the northern part of Morris county were bought from Indian claimants. Whatever may have been the questions as to the titles of land in New Jersey between the Dutch, Governor Nicholls, the Lords Proprietors and the early settlers, every Jerseyman can claim this for the honor of those who first immigrated into the province; every acre of land within the State was honestly bought and paid for; in no instance whatever was a foot of ground taken from the Indians without full compensation to them.

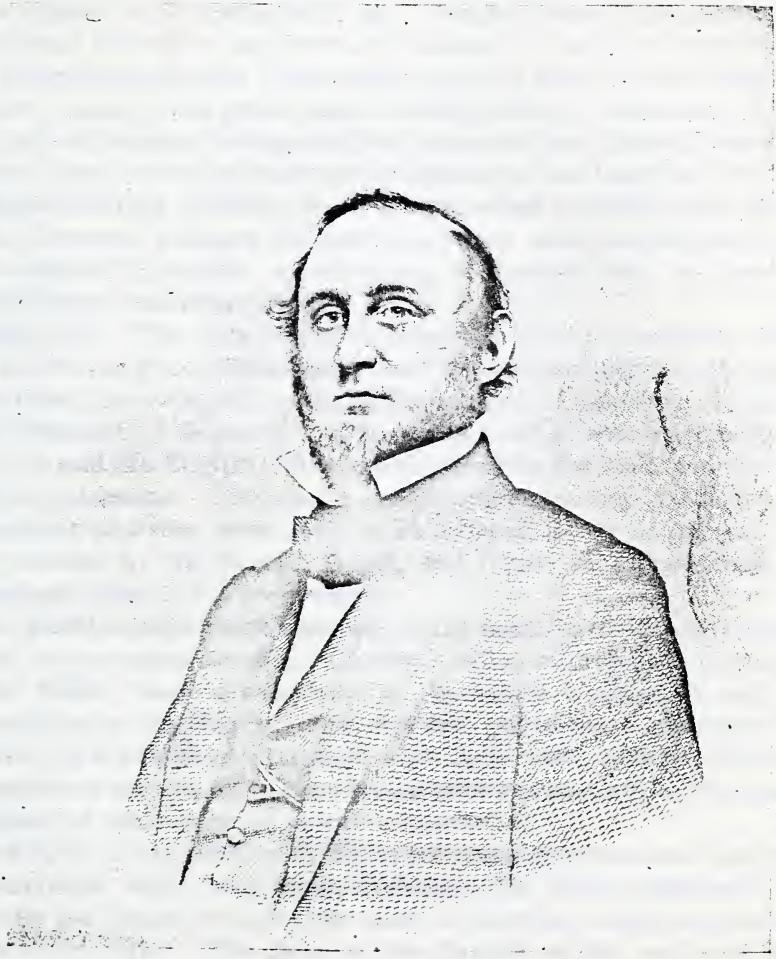
The once powerful, although defeated and dispirited tribe of Indians, the Leni Lenape, became scattered in different parts of the United States, after the Revolution, upon reservations set apart for their occupancy by the general government. In 1832 a portion of them who had been settled in a new home on Green Bay, had been reduced to about

forty individuals of whom a christianized, educated man named Shawuskehung, or Wilted Grass, but who was better known by the name of Bartholomew S. Calvin, the oldest chief in the tribe and schoolmaster of half a century, was sent by this small remnant to New Jersey to make application for a grant of money. The Indian claim was presented to a joint committee of the Legislature, by Samuel L. Southard, United States senator. The claim had no real legal grounds, but it addressed itself to the humanity of the committee. Mr. Southard, in presenting it, said this: "It was a proud fact in the history of New Jersey that every foot of her soil had been obtained from the Indians by fair and voluntary purchase and transfer, a fact that no other State in the Union, not even the land that bears the name of Penn, can boast of." The request was made for an appropriation of two thousand dollars, which was the sum named by the Indians, in consideration of which the Delawares offered to release any past claim they might have. Mr. Calvin sent a letter of thanks to the Legislature, in these words: "Bartholomew S. Calvin takes this method to return his thanks to both Houses of the Legislature and especially to their committees for their very respectful attention to, and candid examination of the Indian claims which he was delegated to present."

"The final act of official intercourse between the State of New Jersey and the Delaware Indians who once owned nearly the whole of its territory, has now been consummated, in a manner which must redound to the honor of this growing State and, in all human probability, to the prolongation of the existence of a wasted yet grateful people. Upon this parting occasion I feel it to be an incumbent duty to bear the feeble tribute of my praise to the high toned justice which in this instance, and, so far as I am acquainted, in all former time, has actuated the Councils of this commonwealth in dealing with the aboriginal inhabitants."

"Not a drop of our blood have you spilled in battle; not an acre of our land have you taken but by our consent. These facts speak for themselves, and need no comment. They place the character of New Jersey in bold relief, a bright example to this State within whose territorial limits our brethren still remain. Nothing save benisons can fall upon her from the lips of the Leni Lenappe."

"There may be some who would despise an Indian benediction but when I return to my people and make known to them the result of my mission, the ear of the great Sovereign of the Universe which is still



E. W. WHELPLEY.

open to our cry, will be penetrated with our invocation of blessings upon the generous sons of New Jersey."

"To those gentlemen, members of the Legislature and others who have evinced their kindness to me, I cannot refrain from adding the unsolicited tribute of my heart-felt thanks. Unable to return them any other compensation, I fervently pray that God will have them in his holy keeping, will guide them in safety through vicissitudes of this life, and, ultimately, through the rich mercies of our Blessed Redeemer receive them into the glorious entertainment of his kingdom forever."

When Governor Nicholls made grants, some of which were issued before Governor Carteret reached New Jersey and certainly before he had notice of Carteret's appointment, he insisted that his grantees should secure the Indian rights.

SECOND. The title acquired from the Dutch governors. This was more than questionable, and never was successfully set up, in any suit at law, in an English court, as a muniment of title for a plaintiff, or in defence by a defendant. The Dutch could give no title that could avail, so said the English; they had no estate in the land, not even the right of possession. They had a sort of possession, but it was that of trespassers, and they were liable to be evicted, at any time, and had been evicted by Sir Samuel Argal, and forced to acknowledge the paramount claim of his government.

But a still stronger argument was in the hands of British statesmen, which seemed unanswerable. Charles I, when informed of the action of the Dutch, made a complaint to the States General, through his ambassador at the Hague. The Holland government promptly disavowed, by a published statement, any claim, and declared that the possession of the colony of New Netherland was that of the West India Company of Amsterdam, a private corporation.

The right to any country by discovery was a governmental and not an individual affair, and when, therefore, this public disavowal was made by the Dutch through their state authorities, there was an end of the controversy. The claim of the English might not have been admitted in direct terms, but the States General were certainly precluded from controverting it and the British government could fall back on their right to the country by discovery without fear of contradiction.

Notwithstanding these objections the Dutch title had some value and obtained largely in Bergen, in the northern part of Morris and in

the central eastern portion of the State. Whatever land is now held under it, where there has been no confirmation by the Lords Proprietors or their governors, can only be claimed by a title acquired by adverse possession. It is too late now to question the ownership, there has been an acquiescence for too long a time in the possession, by the claimaints of the legal title and a perfect estate in fee has been thus acquired. Some large grants of land made by the Dutch governor in New Jersey, notably those at what is now Hoboken, at Jersey City and in central parts of the State to Dutch settlers and others, have been confirmed by the grantees of the Duke of York. These grants were never considered safe by those to whom they were made, until they were so confirmed.

THIRD. The grants made by Governor Nicholls.

These played a very important part in the history of land titles in New Jersey. Their validity has already been somewhat discussed and their history related. They came in direct conflict with those made under Berkeley and Carteret, and as will be seen hereafter, that conflict gave rise to a famous controversy in the Court of Chancery of New Jersey.

FOURTH. The grants made by the Lords Proprietors.

These are the foundation of all titles of any real value to real estate in New Jersey. They were, however, at one time, seriously questioned by the settlers in Newark and by the inhabitants of other places. The people of Newark insisted that they had bought their land directly from the Indians, who were the real owners of the soil; others who had become the grantees of Nicholls claimed that they had received title from him; that he was fully authorized to make those grants; that they had taken possession of their property under deeds from him; had improved it; and had a clear title which ought not be disputed. These controversies, however, between the Lords Proprietors and those who denied their right, arose when a demand was made for the payment of quit rent; and, of course, self interest lent strength to the objections.

Behind all titles to lands in New Jersey there was another, upon which, according to the international law of those days, all others must depend. This was the one derived from the king of Great Britain, who claimed the whole, or nearly the whole of North America, by the right of discovery. All unoccupied land, or that only inhabited by roving savages, was claimed by the sovereign under whom the dis-

coverer of the country sailed, as "*Crown Lands*," and as such was the subject of grant by the sovereign. Charles II made grants of New York and New Jersey, which he claimed to be "*Crown Lands*" and his grantee in turn, made release of part of the land so granted to him. This has already been stated, but is again referred to in this connection, as it seemed necessary to recall the facts. When, therefore, a denial was made of payment of quit rent to the Lords Proprietors, upon the ground that the land for which rent was claimed was held by another title; that is, by deed from the aborigines, or from any other source, those who refused to make such payment, virtually denied the general principle which obtained at the time.

To recapitulate, for the purpose of grouping the sources of titles to land in New Jersey together so that they may be compared and understood:

First. The title made by the Indians.

Second. That coming from the Dutch.

Third. That created by Governor Nicholls.

Fourth. That granted by the Lords Proprietors, and behind them all, the grant from the sovereign, Charles II, claiming paramount title over all, by virtue of the right of discovery, and his undoubted estate in the countries granted as "*Crown Lands.*"

It must be remembered that with the Letters Patent from Charles to the Duke of York went not only the title to the land but the right of government, and that the Lords Proprietors not only claimed but exercised the sole sovereignty over the province they acquired. In this claim of York's grantees to sovereignty, there was a general acquiescence by all the inhabitants of the province, but it was somewhat inconsistent on the part of those who admitted this claim, that they should dispute their title to the land. The proprietors called a meeting of an assembly, or what would be denominated at the present day, a legislature. To this body Newark and other towns sent delegates; thus acknowledging the authority of the Lords Proprietors in this direction. But, as will be seen hereafter, there were no more persistent deniers of the title of the Lords Proprietors to the land than these very communities which elected members of this colonial legislature and thus acknowledged the right of sovereignty in the proprietors.

Charles II hated the Dutch; he had no great love for his own people; he cared little for the glory or honor of his kingdom. It was

well enough for him to be a king, it gave him immunity from accountability; it provided the means for him to pursue a life of sin and unrighteousness. If he could serve his own personal interests; secure his own ends; satisfy his revenges, and provide for his sensual indulgences, he cared nothing for results. He was a true Stuart and during the whole of his career manifested the worst characteristics of that miserable family which never gave a respectable sovereign to England. In his mad career for pleasure he lost sight of every measure which tended to elevate his throne to its proper place among the powers of Europe. With few exceptions, every king of England from the time of William the Conqueror, down to that evil day when James I ascended the English throne, had labored with clear sighted vision to preserve a balance of power in Europe which would keep in check the ancient foe and traditional rival of England. The Dutch were the natural allies of Great Britain; they were a nation of intrepid and veteran sailors, and were the only nation in Europe who could successfully defend and protect the English from invasion across the narrow channel dividing England from France. But Charles was more French than English; in the impressionable age when youth takes on the fashions, the habits of thought and action of its surroundings, he had been in France, and after he became an English king he never lost the impressions which had filled his heart and mind when he was among the dazzling glories of the French court. He lost his manhood, he surrendered his independence, yielded up his self-respect and became a traitor to his people and his crown. He was the bribed pensioner of the French monarch; so, when that monarch directed him to declare war against the Dutch, he obsequiously obeyed, and in 1672–3 hostilities broke out between the two countries, which should have been cemented by the strongest ties. Louis XIV, who was then king of France, joined Charles in declaring war; but he stood aloof in a great measure from the contest and allowed the two antagonists to fight their battles alone. The struggle was unequal; it would have been much more so, if Louis had heartily aided his English ally. The Dutch were led by the most skillful and ablest officers. But the English leaders, some of whom had never served in the navy, were equally potent on the sea as on the land. Holland seemed on the point of being overwhelmed by the English. The ruin of the Dutch was not what Louis desired; it might become necessary thereafter to use Holland in keeping the English in check. So Charles was directed to

make peace, and he obeyed; the continuance of his French pension depended upon his obedience to his royal benefactor. Hostilities were of short continuance; and on the 9th of February, 1674, the peace of Westminster was signed by the commissioners of the belligerents. By the terms of that peace all the territory taken by either of the antagonists, during the war, was to be restored to the former owner.

The Dutch almost immediately after the breaking out of the war sent a naval force to seize New York and on the 13th day of July, 1673, the attempt was successful. The surrender of the town gave rise to a controversy, many insisting that the officer in command for the English should never have surrendered, and that officer was tried by court martial. The fall of New York brought with it the possession to Holland of what was called the New Netherlands, which included New Jersey. In pursuance of the treaty of Westminster, the country thus conquered was restored to England. The cession was made formally by the States General to the king of England. These facts created a doubt whether the grant already made by Charles to the Duke of York was valid. Of course, if that were of no force, then the release by James to Berkeley and Carteret were valueless. To obviate any difficulty and to remove any doubt as to the title of the Duke to New York and New Jersey, the King, on the 29th day of June, 1674, made a new grant by Letters Patent to James, by which he conveyed precisely the same domain as that described in the first deed. The second Letters Patent are an exact copy of the first except in some very few and unimportant words.

This deed from the King to York was followed on the 20th day of July of the same year, 1674, by a deed of lease and release from the Duke of York to Sir George Carteret of a portion of New Jersey thus described:

"All that tract of land adjacent to New England and lying and being to the westward of Long Island and Manhitas Island, and bounded on the east part by the main sea, and part by Hudson's river, and extends southward as far as a certain creek called Barnegatt being about the middle, between Sandy Point and Cape May, and bounded on the west in a strait line from the said creek called Barnegat, to a certain creek in Delaware river next adjoining to and below a certain creek in Delaware river called Renkokus Kill, and from thence up the said Delaware river to the northermost branch thereof, which is in forty one degrees and forty minutes of latitude; and on the north,

crosseth over thence in a strait line to Hudson's river in forty one degrees of latitude; which said tract of land is hereafter to be called by the name or names of New Caesarea or New Jersey."

This description is the first one which appears any where on any record of a distinctive part of New Jersey as an independent province and is, undoubtedly, intended to describe that part of the province which was thereafter to be known as East New Jersey.

Immediately after this deed to Carteret, he assumed separate and independent control of the part of New Jersey so conveyed to him. On the 31st day of July, 1674, he issued what he called "*Directions, Instructions and orders*":

"*Directions Instructions and Orders*, made and given by the Right Honourable Sir George Carteret, Knight and Baronet, Vice Chamberlain in his majesty's household, and one of his Majesty's most honourably Privy Council, Lord Proprietor of the country or Province of New Caesarea or New Jersey, together with a declaration by him made, of the true intent and meaning, and an explanation of several articles of the concessions formerly made by him, and the Lord John Berkeley, dated the 10th of February, in the year of our Lord 1664, to be observed by the Governor and Council, and inhabitants of the said Province."

These "Directions" have an important bearing upon the question as to the title of land in New Jersey. While, of course, they could not change any legal title acquired before their issue, yet they express most explicitly the views held by Carteret as to the validity of any grants other than those obtained from him or his authorized agent. Some of the articles in these "Directions" are therefore quoted entire, so that more light may be thrown on the history of title to land in New Jersey.

"I. We being made very sensible of the great disorders in our Province, occasioned by several persons to the great prejudice of our self, our Governor and Council, and all other peaceable and well minded inhabitants, within our said Province, by claiming a right of propriety both of land and government. Wherefore we do hereby declare first, that all lands granted by our Governor to the 28th July, 1672, and confirm'd in our names by Patents, or Charters upon record in our Secretary's office, under our Province seal, signed by him and the major part of his Council, shall remain to the particular owners thereof, their heirs, &c., for ever, with all the benefits, proffits, and priviledges therein

contain'd, they performing what they are obliged unto in every of the said respective Patents or Charters."

"II. For such as pretend to a right of propriety to land and government within our Province, by virtue of any patent from Governor Colonel Richard Nichols, as they ignorantly assert, we utterly disown any such thing. A grant they had from him upon such conditions which they never perform'd; and by the said grant they were obliged to do, and perform such acts and things as should be appointed by his Royal Highness, or his deputies, whose power remained in us by virtue of a patent from his said Royal Highness bearing date long before those grants, which hath been often declared by our Governor, and since owned under the sign manual of his Royal Highness, bearing date the 25th of November, 1672, and demanded their submission to our authority, and to patent their land from us, and pay our quit rent according to our concessions; which if they had done, or shall yet do, we are content they shall enjoy the tract or tracts of land they are settled upon. *Provided* it hath not been taken up contrary to our order, and that it be not to the prejudice of the rest of the inhabitants and to have such other priviledges and immunities as our Governor and Council and they shall agree upon. But if such persons as have not already received patents of their land from us, shall not within one year after notice to them given of this our pleasure therein, desire and accept patents of the said land, we do hereby order our Governor and Council to dispose of such lands and tenements, in whole or in part for our best advantage to any other persons: And if any person or persons do think they have injustice, or wrong done them, by this our possitive determination, they may address themselves to the King and Council, and if their right to that land or government appears to be better than ours, we will readily submit thereunto."

"IV. That all grants of land, conveyances, surveys, or any other pretences for the hold of land, whatsoever within our said Province, that are not derived from us according to the prescriptions in our concessions, and entered upon record in our Secretary's office, in our said Province, we declare to be null and void in law."

"And Lastly. We do hereby grant, order and direct, that the concessions made sign'd and seal'd by the Lord John Berkeley, and myself, bearing date the 10th day of February, 1664, shall still continue and stand in force, and be kept, maintain'd, and perform'd in all and every of the parts and articles thereof, unto the said Province except such of

them, and in such manner as the same or any part thereof, are altered or explained in or by these presents or in or by any former order and instruction sent to the Governor, or Deputy Governor and Council there, under the hands of the said Lord Berkeley and myself, or under my own hand alone."

On the same 31st day of July, 1674, Carteret issued a commission to his kinsman, Philip Carteret, making him governor of that part of the colony thus newly granted to him. This man, Philip Carteret, had been made governor of the whole province by Berkeley and Carteret in 1664, when they received their grant from York. In this last commission, Sir George styles himself Lord Proprietor of New Caesarea or New Jersey, in America and Philip Carteret is called Governor of the province of New Caesarea or New Jersey. No direct reference is made to any prior commission, but it is fairly implied that there had been one previously given.

The governor was clothed with most ample powers, as will appear by the following quotations from his commission: "full and absolute power and authority for us, and in our name, to let, sell, convey, and assure such lands in our said Province, to such person and persons, and for such estate and estates, and with such provisoes, conditions and limitations as by certain concessions and agreements made by John Lord Berkeley of Stratton, and myself, under our hands and seals bearing date the tenth day of January, 1664, to and with the adventurers, we are obliged to grant, and as you shall be directed by certain instructions and directions under my hand and seal bearing date with these presents, and by such other instructions and rules as from time to time you shall receive from us, and not otherwise; hereby ratifying and confirming whatsoever you shall lawfully do pursuant to our said concessions, and to such instructions, rules and directions as aforesaid, as also to make, do, perform and execute, all our singular act and acts, thing and things, powers and authorities whatsoever, which we ourself may, can, might or could do, in, for, concerning or relating to the government, both civil and military, of the said Province or tract of land by virtue of any grant from or derived under his most excellent Majesty King CHARLES the Second, by the Grace of God King of England, Scotland, France and Ireland, Defender of the Faith, &c., to be exercised (nevertheless) according to such instructions, and with such limitations, restrictions, conditions, and provisoes, as in these presents are hereafter contain'd; hereby ratifying, confirming and allowing all and every such act and acts,

thing and things, which our said Governor and our said Council in our name, shall do in the premises, pursuant to the authority hereby committed. *Provided*, and it is hereby declared, that this present deed, or any thing therein contained, do not extend, nor shall it be deem'd or taken to extend, to give up to the said Governor, or said Councellors, or either or any of them, any power or authority to make any grant, conveyance, demise, or other like disposition of any land, lying within or being part of the said Province, but according to our said concessions and instructions, and reserving for every acre English measure, which by virtue of this authority you shall grant to any person or persons, one half penny of lawful money of England, yearly rent, to be paid to us, our heirs or assigns, on every five and twentieth day of March, according to the English account, the first payment thereof to begin the five and twentieth day of March, which shall be next after making of the said grant."

Although not germane to the present subject, yet it ought not be overlooked, that this last commission to Philip Carteret affords full evidence of the kind and considerate manner in which the first rulers and settlers in New Jersey treated the aborigines. In that commission, the "*Lord Proprietor*" thus instructs his Governor and Council:

"And lastly. If you our said Governor and Councellors shall happen to find any natives in our said Province and tract of land aforesaid, that then you treat them with all humanity and kindness, and not in any wise grieve or oppress them; but endeavoring by a Christian car riage, to manifest piety and justice, and charity in your conversation with them; the manifestation whereof will prove beneficial to the planters, and likewise advantageous to the propagation of the Gospel."

By this last chain of title it would appear that there had been some division made of the province between Lord Berkeley and Sir George Carteret. In the grant to Carteret, made by the Duke of York, Berkeley is entirely ignored, and it would seem that this was the condition of things: A release having been made by York to Berkeley and Carteret as tenants in common, each was seized of an undivided half of the whole domain, according to the undoubted principle of law. No new grant by a former owner to York could divest either of the tenants of their right to the undivided half and the new deed could only inure to their benefit, so that when the Duke made his new grant to Carteret of part of the whole domain in severalty, he did not divest Berkeley of his interest, but the title remained vested in the two grantees precisely as it

was when the first release was made and delivered. But, on the 18th of March, 1673, Berkeley conveyed his moiety in the whole province of New Jersey to John Fenwick for the consideration of a thousand pounds. On the 10th day of February, 1674, a deed tripartite for the same moiety was made between John Fenwick of the first part, Edward Billinge, of the second part and William Penn, Gawn Lawry and Nicholas Lucas of the third part. This deed had been preceded by another of bargain and sale dated the 9th of February, 1674, for the term of one year, between the same parties, except that they were thus described: John Fenwick and Edward Billinge as of the one part and William Penn, Gawn Lawry and Nicholas Lucas of the other part;—an arrangement undoubtedly made for the purpose of complying with the conditions accompanying deeds of lease and release. By these two conveyances, William Penn, Gawn Lawry and Nicholas Lucas were vested with the moiety or one-half part of the province of New Jersey, but it was admitted by the tripartite deed that Edward Billinge claimed to have some equitable interest in the domain. It was declared by the last named deed that the whole province was held by Sir George Carteret and by Penn, Lawry and Lucas, as tenants in common; that Sir George was seized of one undivided half of the whole province and that the other three were seized of the other half.

This being the state of affairs with reference to the title to New Jersey, on the 1st day of July, 1676, a quintipartite deed was executed by Sir George Carteret, William Penn, Gawn Lawry, Nicholas Lucas and Edward Billinge. This deed contains an immense amount of verbiage, recites all the prior grants and conveyances for the purpose of showing exactly how the title stood and partitioned the province into two parts or shares, one of which was conveyed to Sir George Carteret and the other to Penn, Lawry and Lucas. The part conveyed to Carteret is thus described: "All that easterly part, share and portion, and all those easterly parts, shares and portions of the said tract of land and premises so granted and conveyed by his said Royal Highness, the said James, Duke of York, unto the said John, Lord Berkeley and Sir George Carteret as aforesaid, extending eastward and northward along the seacoast and the said River called Hudson's River, from the east side of a certain place or harbour lying on the southern part of the same tract of land, and commonly called or known in a map of the said tract of land, by the name of Little Egg Harbour, to that part of the said river called Hudson's River, which is in forty-one degrees of latitude,

being the furthermost part of the said tract of land and premises which is bounded by the said river, and crossing over from thence in a strait line, extending from that part of Hudson's river aforesaid to the northermost branch, or part of the before-mentioned river called Delaware river, and to the most northerly point or boundary of the said tract of land and premises, so granted by his said Royal Highness, James Duke of York, unto the said Lord Berkeley and Sir George Carteret, now by the consent and agreement of the said parties to these presents, called and agreed to be called the north partition point, and from thence, that is to say, from the said north partition point extending southward by a strait and direct line, drawn from the said north partition southward, thro' the said tract of land, unto the most southardly point of the east side of Little Egg Harbour aforesaid; which said most southardly point of the east side of Little Egg Harbour is now by the consent and agreement of the said parties to these presents, called and agreed to be from henceforth called the south partition point: and which said strait and direct line drawn from the said north partition point thro' the said tract of land, unto the said south partition point is now by the consent and agreement of the said parties to these presents, called and agreed to be called the line of partition, which is the line hereinbefore mentioned to be intended, by the said consent and agreement of the said parties, for the dividing and making a partition or separation of the said easterly part share and portion from the westerly part, share and portion of the said tract of land and premises, so conveyed by his said Royal Highness aforesaid, in and by these presents intended to be bargained, sold and conveyed by the said Sir George Carteret unto the said William Penn, Gawn Lawry and Nicholas Lucas." The part conveyed to the other three is thus described: "All that westerly part, share and portion and all that and those other part and parts, share and shares, portion and portions, of the said tract of land and premises so granted by his said Royal Highness, the said James Duke of York, unto the said John Lord Berkeley and Sir George Carteret as aforesaid and which said westerly part, share and portion, and which said other parts shares and portions, is and are extending southward and westward and northward along the seacoast and the before mentioned Bay and River commonly called and known by the name or names of Delaware Bay and Delaware River, from the said south partition point before mentioned to be on the east side of Little Egg Harbour, unto the said north partition point herein before mentioned, to be on the before mentioned northermost branch

or part of Delaware river aforesaid; and from thence, that is to say, from the said north partition point, extending southward unto the said south partition point before mentioned, by the said before mentioned strait and direct line called the line of partition drawn thro' the said tract of land from the said north partition point unto the said south partition, by the consent and agreement before mentioned, intended for the dividing and making a partition or separation of the said westerly part, share and portion from the before mentioned easternly part, share and portion of the said tract of land and premises so conveyed by his said Royal Highness as aforesaid, and hereinbefore bargain'd, sold and conveyed by the said William Penn, Gawn Lawry, Nicholas Lucas and Edward Billinge unto the said George Carteret as aforesaid."

By this Quintipartite Deed that part of New Jersey which became the several property of Sir George Carteret was to be called and known as East New Jersey, and that which was conveyed to William Penn and his associates, was designated West New Jersey. For several years after the date of this deed of partition there were two distinct, independent political organizations in New Jersey, known by those two names. Each had its own separate governor, council and legislature, and each was governed by a code of laws differing essentially from that of the other. Each of these divisions moved in its own sphere without any attrition with the other; there was, in fact, or seemed to be, perfect harmony between them; but there were dissensions within the province of East Jersey which culminated at last in serious trouble. Comparative quiet reigned in West Jersey, so far as its inhabitants were concerned, but encroachments were made upon the authority of its governors, as will hereafter be noticed.

It will be remembered that in the new grant, made after the peace of Westminster, by the Duke of York to Sir George Carteret, the name of Lord Berkeley is not mentioned, nor is that of his immediate grantee, nor are those of any of that grantee's assignees. It is difficult to account for that omission unless it be that the parties to this new grant purposed to ignore any title in Berkeley, or in his assigns, to either East or West Jersey. He had already conveyed his undivided half of the whole of the province to John Fenwick, by a deed of bargain and sale, dated the 18th day of March, 1673, nearly a year before the date of the new grant by York to Carteret. This deed to Fenwick is mentioned in the Quintipartite Deed and is recognized by that instrument as valid and subsisting. It was, in fact, one of the muniments of title

upon which the Quintipartite Deed was based. Subsequent events will show that York did not recognize Berkeley's title and that he claimed West Jersey as belonging to himself.

On the 9th day of February, 1674, a short time before the new grant to Carteret for East Jersey was made, John Fenwick conveyed his moiety in the whole of New Jersey, sold to him by Berkeley, to William Penn, Gawen Lawry and Nicholas Lucas, for one year, by deed of bargain and sale. In this deed Edward Billinge joined, signing as one of the grantors. On the very next day, the 10th day of February, 1674, a tripartite deed was executed by John Fenwick of the first part, Edward Billinge of the second part and William Penn, Gawen Lawry and Nicholas Lucas of the third part. By this deed the undivided half of the whole of New Jersey was conveyed to Penn, Lawry and Lucas, as tenants in common; but in the deed it is stated that Edward Billinge claims to have an equitable interest in the lands conveyed. These two conveyances were of the same character as those before mentioned, called Lease and Release, adopted by English conveyancers at that time, to convey lands in fee.

By this chain of title, it will be seen that at the time of the Quintipartite Deed, the whole of New Jersey was vested in Sir George Carteret, William Penn, Gawen Lawry and Nicholas Lucas; the parties to the deed of partition by which East Jersey was assigned to Carteret and West Jersey was vested in Penn, Lawry and Lucas, as the grantees of Berkeley's assignee. This deed of partition is called the Quintipartite Deed because there were five parties to it, Edward Billinge, who had some unestablished interest in the land conveyed, being the fifth party.

There were some land holders, however, as has already been stated, who claimed by conveyances made by the Indians and would not acknowledge any right in Charles to make grants of land in the province which, they asserted, belonged to the aborigines; and there were others who claimed, in opposition to Carteret, through grants made by Governor Nicholls. But the question still remained unsettled whether the Dutch conquest had not utterly destroyed any title of the English monarch to any part of New Jersey. If it had done that, then it was necessary for Charles to reconvey to York and for York to make a new deed to Berkeley and Carteret. The king performed his part and made the new deed to the Duke, but York hesitated, dallied, played fast and loose, equivocated and held back; finally, doubtless fearing to

arouse the wrath of his brother, the English monarch, he made a conveyance, but it was only for a portion of New Jersey, and to Carteret alone. The vexed question as to Berkeley's title still remained undetermined. The Quintipartite Deed acknowledged its validity, but the Duke did not.

On the 1st of July, 1674, York appointed Sir Edmund Andross governor of all the country which was granted to him by Charles by the new grant, and this was done only two days after that new grant was made.

There is considerable difficulty in arriving at exact facts at this period in the history of New Jersey. Public records were few, very meagre and quite uncertain. In many instances there were no records at all and the historian who honestly desires to ascertain the true state of affairs and to give facts which can be authenticated, is very much embarrassed. There were some records kept in New York, but they were, in many instances, mere skeletons and barely state transactions in the briefest possible way and in such a manner that those only who were contemporary and knew the attendant circumstances might understand what was intended to be recorded; but to those who lived some generations afterwards, these records were, in a measure, unintelligible.

Up to December, 1672, Berkeley and Carteret undoubtedly acted in concert. As late as the 6th day of December, 1672, they published a declaration of the "*true intent and meaning of us the Lords Proprietors*" and an explanation of their concessions made in 1664. On the same day they announced another declaration of "*us the Lords Proprietors of the province of New Caesarea or New Jersey*," addressed to all adventurers, planters, inhabitants within any town and plantations in said province, in which they speak of "*our Governor*," "*our Secretary*," and confirm all grants made by "*our Governor*," to the the 28th of July, 1672. On the 7th of December, 1672, they issued another joint declaration which they called "*Directions for the Governor and Council of New Caesarea or New Jersey.*" In this last declaration they again style themselves "*Lords Proprietors*" and claim payment to their receiver-general of quit rent which they insist is due to them for the lands held by settlers. On the 9th of the same month and year, King Charles recognized them both as Lords Proprietors of New Jersey and as having the sole power to settle and dispose of the country upon such terms and conditions as they should see fit; he also takes the inhabitants to task because they refused obedience to Berke-

ley and Carteret, "*as absolute proprietors of the same.*" Finally on the 10th and 11th of the same month and year other communications from Berkeley and Carteret unmistakably show that up to that time they were acting together and claiming joint rule and proprietorship, as Lords Proprietors over the whole province of New Jersey.

There can be no possible doubt, then, that, up to the time of the conveyance to Fenwick, Berkeley's title to the undivided half of the whole province was recognized, if not absolutely agreed to; certainly by all parties interested. There is no record anywhere that any partition between Berkeley and Carteret was ever contemplated, and such circumstances as can be well authenticated, indicate that, so far as they themselves were concerned, a partition was never intended to be made between them.

There is a singular fact appearing in the records which are still in existence. On the thirteenth day of June, 1674, King Charles addressed a letter to the authorities in New Jersey, in which he uses this language: "*Whereas our right trusty and well beloved Councellor Sir George Carteret Knight and Baronet by grant derived under us, is seized of the province of New Caesarea or New Jersey in America and of the jurisdiction thereof.*" This was one month and seventeen days *before* the new grant by York to Carteret and is quite significant, certainly, of what the king supposed to be the true state of the case, or what he believed ought be, or, more probably, what he *desired* should be, under the circumstances. It must not be forgotten that Carteret was a great favorite both with Charles and with York.

Sir Edmund Andross, on the 9th of November, 1674, almost immediately after he became governor under the Duke of York, issued a proclamation, as governor, by which all former *grants*, *privileges* or *concessions* theretofore made or granted and all estates legally possessed *by any* under the Duke prior to the Dutch conquest were confirmed and the possessors, by virtue thereof, were to remain in quiet possession of their rights. This proclamation must have been made with the knowledge and, undoubtedly, with the full concurrence of the Duke. It is not at all probable that Andross would have dared publish so important a document to the world without the authority of his royal master.

Andross was a man of violence, tyrannical in his treatment of those under his control and utterly regardless of the right. He was capable of committing the most outrageous acts without license or authority,

stopping at no bounds, if he could secure his end, oppressive beyond measure and abusing his authority to accomplish what he deemed to be most advantageous for his master and himself. Utterly subservient to his superiors and employers, if he had any virtue, it was that he was honestly courageous in attempting to secure their advantage, but, in furthering their interests, he was neither just to others nor correct in his methods.

James, himself, was open to the charge of tyranny and duplicity towards the struggling inhabitants in the province. He was openly charged with a desire to recover the lost province of New Jersey, which he had already granted to Berkeley and Carteret in 1664, to the great disgust of Col. Nicholls, who was then governor under him. A word—a single word, to Andross from York would have prevented his tyrannical acts which he so soon directed against Fenwick and West Jersey and afterward against Cartaret and the people of East Jersey.

He and his Council were vested with all the powers of government over the domain which was intrusted to his care, subject to all other grants which the Duke might legally make. But York had undoubtedly granted East Jersey to Sir George Cartaret with unmistakable power of government and Andross must have known that fact. He came over from England about the same time, if not on the same vessel, with Governor Philip Carteret. Whether he knew these facts at first, or not, he learned them soon after he assumed the governorship of New York. The deed of Lease and Release by York to Sir George, the warrant appointing Philip Carteret governor of East Jersey were exhibited to him and full opportunity given him to examine them, before he began his evil course against that province. At first, he did not seem disposed to take any steps to molest Carteret, or extend the authority of the Duke over East Jersey, but turned his attention to West Jersey.

The examination of this part of the history of New Jersey has an indirect connection with titles to land which is the subject now under discussion, and these facts are introduced at this point only because they have an influence on the question of titles. Fuller notice will be given them hereafter.

Andross attempted to introduce the Duke's authority over West Jersey and insisted upon the right to impose tariff duties upon all goods imported into the province and which might be exported. He imprisoned Fenwick and obliged him to give his parol that he would not attempt



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to exercise any power of government in the province he had purchased from Berkeley, and which had been assured to him by the partition intended to be effected by the Quintipartite Deed. After these outrages in West Jersey, Andross turned his attention to East Jersey and claimed the right to exercise the same authority there and when Governor Philip Carteret bravely withstood him, he caused his arrest forcibly, under circumstances of great indignity and outrage, carried him to New York, threw him into prison and kept him confined there for nearly a month. It is true that his acts were finally ignored and repudiated by York, but Andross was virtually indorsed by his appointment as governor of New England, after York became James II.

The grant by Berkeley to Carteret was finally confirmed by James about 1680. This put an end to all disputes as to the title to land in both East and West Jersey, except as to that claimed by a few as being derived from the Indians and from Governor Nicholls. York could not well ignore deeds which were made by his own governor, granted under full authority given by him to that governor.

This then was the condition of the title to lands in New Jersey when there was a final settlement of the conflicting claims. New Jersey was divided into two distinct, separate and independent provinces called East and West Jersey.

It ought be said that the westerly division line between the two colonies was not well defined, and that this fact gave rise to great trouble and much litigation. That division line still remains undetermined.

Sir George Carteret and his heirs and assigns were the absolute owners in fee of all land in East Jersey not already granted to settlers and others, with powers of government; William Penn, Gawen Lawry and Nicholas Lucas were the owners in fee of all land in West Jersey except such as had already been conveyed by the rightful owners and were also vested with the right of government. Land in East Jersey was sold to twenty-four proprietors, so that all land there, at first, was held in twenty-fourths or fractions of a twenty-fourth. In West Jersey it was held in hundredths or fractions of a hundred.

There were two kinds of grants; one where a gift was made to actual settlers at the beginning of the history of the colony; when, by the "*grants and concessions*" the amount of land donated to a settler depended upon the number of individuals in his family, with an additional amount for each servant brought with the family into the province. These were called "*headlands*." The other kind of grant was

acquired by this process: A warrant, signed by the Governor and a majority of the Council, was delivered to the surveyor-general, who surveyed the land, made his return in writing, showing his survey and a description of the property; both warrant and return were recorded by the register. If there were no objection to the warrant, it was then issued, signed by the Governor and his Council, authenticated by the great seal of the province and this warrant was then recorded and the title to the land was perfected. This was the process in East Jersey; no patents were issued in West Jersey.

CHAPTER V.

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By the "Grants and Concessions" made by Berkeley and Carteret the power of legislation in New Jersey was vested in the Governor and

his Council and twelve deputies, or representatives, to be chosen from amongst themselves by such of the inhabitants of the Province as were "Freemen," or their agents. The Governor's Council, selected by him, was to be composed of "*six at least, or twelve at most, or any even number between six and twelve, with whose advice and consent, or with at least three of the six, or four of a greater number, all being summoned, he is to govern according to limitations.*" The Governor, Councillors and Assemblymen were obliged "*to swear or subscribe in a book to be provided for that purpose, that they will bear true allegiance to the King of England, his heirs and successors; and that they will be faithful to the interests of the Lords Proprietors of the said Province and their heirs, executors and assigns; and endeavor the peace and welfare of the said Province; and that they will truly and faithfully discharge their respective trust in their resepective offices, and do equal justice to all men according to their best skill and judgment without corruption, favor or affection.*" Those who were, or might become subjects of the king of England, and swear or subscribe allegiance to him and faithfulness to the Lords Proprietors were called "Freemen" and were admitted to plant, could hold land and vote.

The Governor and his Council and the twelve deputies or representatives, when assembled in their legislative capacity, were to be called the General Assembly and were granted the fullest powers of legislation possible. In some respects, those powers were most minutely defined; but they were generally authorized by the grants and concessions to enact and pass all such "laws, acts and constitutions as shall be necessary for the well government of the said Province and them to repeal," with certain provisos already mentioned. This form of the legislative body, composed of Governor, Council and Assembly, obtained during the whole of the colonial times in New Jersey and until the Constitution of July 2, 1776, was adopted by the provincial Congress. Although the Governor and his Council and the Deputies were together called the General Assembly, yet the Legislature was composed of two distinct bodies, who met and deliberated apart, and in separate rooms; the Governor and his Council composing one body, and the Deputies another. The several acts were submitted to these two bodies separately; any statute passed by the Deputies or Burgesses, as they are called in the record of the laws, was presented to the other body, and all statutes enacted by the Governor and his Council must be approved by the Deputies. There did not seem at first to be any regular rule or

custom requiring a formal approbation by a re-enactment of a law when thus presented by one body to the other, but, apparently, it was necessary for the full validity of a law that it should, in some way, receive such sanction as would show consent.

On the 7th of April, 1668, a little less than three years after his arrival, Governor Carteret issued a proclamation, of which, as it is the first of the kind ever promulgated in New Jersey and assumes an important bearing upon the legislative history of that State, a full copy is given: "Whereas, by the infinite goodness, providence, and blessing of Almighty God, this Province of New Jersey is in a probable way of being populated; there being a considerable number of families already settled in several parts of the same, and many more that in a short time are to come and place themselves under this government; for the better propagating and encouragement thereof, I have thought fit, with the advice of my Council, to appoint a General Assembly to begin the 25th day of May ensuing the date hereof, for the making and constituting such wholesome laws as shall be most needful and necessary for the good government of the said province, and the maintaining of a religious communion, and civil society, one with the other, as becometh Christians, without which it is impossible for any Body Politic to prosper or subsist."

"Wherefore these are in the Lords Proprietors names to will and require all the freeholders belonging to . . . to make choice and appoint two able men that are freeholders, and dwellers within the said limits, to be your Burgesses and Representatives for you, and they being empowered by you are to make their personal appearance at Elizabethtown, the 25th day of May next as aforesaid, and there to join with me your Governor and my Council to advise in the management of the affairs that are needful and necessary for the orderly and well governing of the said province:—Hereof you may not fail, as you and every of you will answer your contempt to the contrary. Given under the seal of the Province the seventh day of April, 1668, and in the 20th year of the reign of our Sovereign Lord Charles the Second of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. PH. CARTERET."

This proclamation was issued in pursuance of the Grants and Concessions which provided that until the Colonies should be divided into "Parishes, Divisions, Tribes and other Distinctions" twelve Deputies or Representatives should be chosen to "join with the Governor and

Council" in making laws. But so soon as those divisions were made, then the voters were to meet annually on the first day of January and choose "Freeholders" for each respective Division, to be Deputies or Representatives of the same. This first meeting of any legislature in New Jersey, called according to Governor Carteret's proclamation for May 25th, but which did not meet until the 26th day of May, 1668, was held at Elizabeth Town and continued in session just four days, until the 30th of May. There were present the Governor, Philip Carteret, six members of his Council and ten delegates, two from each of the following named towns: Bergen, Elizabeth Town, Newark, "*upon Pishawack River*," Woodbridge, and Middletown. Piscataway very early assumed some prominence in the colony, but does not seem to have attained such importance at the time of this first meeting of the Legislature in New Jersey as to be entitled to representation. Shrewsbury had no delegates from its own citizens, but was represented by those from Middletown. There were as yet no counties nor other territorial divisions of the colony and there could have been no legislation providing for the number of representatives, dependent upon the population nor the places from which they should be sent. The delegates forming the popular branch of the Legislature represented such towns as were generally recognized as inhabited localities, whose citizens were so numerous and whose interests were so important that they ought be represented in the law-making body of the province. There were no objections made to the representatives, at this first meeting, nor to the mode of election, nor to the numbers. Just how those elections were conducted in the different localities, or what was the method of voting, is unknown, except in the case of Newark. The records of that town give the information that the delegates were appointed at a regular town meeting by the votes of the inhabitants of the town assembled at that meeting.

The Grants and Concessions, as has already been stated, provided that the persons entitled to vote for their delegates should be "Freemen." It is quite evident from these facts that there could have been only six towns in the whole province which were of such size and importance that they considered themselves, and were acknowledged by all, as entitled to representation in this first legislature. These six towns were Bergen, Newark, Elizabeth Town, Middletown, Woodbridge and Shrewsbury.

Bergen was settled, as has been learned, by the Dutch, and the name

of one of the first delegates from that town unmistakably proves his Dutch origin; the other bore a French name, Bayard, but he was a descendant of a Huguenot who had gone to Holland at the time of the revocation of the Edict of Nantes. The history of the settlement of Newark has been already given somewhat in detail, but the other towns have been simply mentioned. The origin of Bergen has been referred to, but not in such amplitude as it deserves. It is now within the bounds of the present county of Hudson. The limits of the original grant were quite indefinite, but the first settlement was very compact and small, being for several years simply a trading post where merchants from New Amsterdam resorted to trade with the natives for game, peltry and such commodities as the aborigines might carry thither for barter. This, undoubtedly, was the original method by which trading was carried on between the natives and the European merchants.

There has been much speculation indulged in by historians as to the date of the first settlement at Bergen; that date cannot be accurately determined, indeed, it is doubtful whether it can be approximated. It is almost impossible to fix definitely the precise time, even as to the year, when Europeans first established themselves as permanent settlers in any particular locality in New Jersey, except, perhaps, in the case of Newark, where the town records have been so well preserved that it can be determined beyond a peradventure, even as to the month and year when the immigrants from Connecticut landed at "*our town on the Passaic.*"

It is not probable that the merchants who built the stockade at Bergen only for the purpose of trading with the aborgines, carried their wives and families there at the first.

The date of 1616 is the earliest which is given for the first settlement of Bergen, and that is very doubtful, although several historians fix it as the correct time; they are not able, or, perhaps, it had better be said, they do not give any authority for the assertion. Henry Hudson discovered the Hudson River in 1609. In 1611 the Dutch began trading with the Indians, but they made no permanent settlements and it was not until 1623 that the pioneer colony consisting of thirty families sailed from Holland and made a permanent lodgment on Manhattan Island. Posts had been established on the river for the purpose of trading with the savages, but nothing more. Bergen was, undoubtedly, the first European settlement in New Jersey, but it originated in

a stockade erected for protection for traders and their goods, and was not at first peopled to any extent whatever by white settlers. Beyond question, it was first populated by Dutch families who came across the river from Manhattan, as New York was then called. It was but a short distance from the west bank of the Hudson to the hills back from modern Jersey City, where this stockade was erected, and it was much easier and certainly safer for the trader to leave his family, if he had one, on Manhattan Island, under the protection of the fort and its Dutch garrison, than to expose them to the dangers and privations of a frontier life. But, in process of time, a change gradually came; the stockade remained, perhaps, but the settler's cabin was erected and a new life was introduced, a vigorous business sprung up and a town of bustling, energetic men gradually gathered its dwellings together and finally became important and successful. At first the space occupied by the traders was so small, that it seemed unnecessary to purchase any land from the Indians, for the houses were built so close together that their roofs touched each other, but as settlers crowded in and there was need of more space, it was found important that some arrangement should be made with the savages for purchasing a large portion of the country surrounding that occupied by the settlers, to provide for their increasing wants, and this purchase was made in January, 1658–9, during the time that the redoubtable "*Pieter*" Stuyvesant was Governor. It was made by the Dutch government then established over the New Netherlands, and the deed was given to the irascible, wooden-legged Stuyvesant, by the name of the Honorable Director General, Petrus Stuyvesant, and the gentlemen of the Council of New Netherlands. The property conveyed was thus described: "A tract lying on the west side of the north river in New Netherlands, beginning by the great rock above Wiekhacken and from thence cross through the land till above the island Siskaes, and from thence along the Channel side till Constables Hook and from Constables Hook again till the aforesaid mentioned rock above Wiekhacken; with all the lands, islands, channels, valleys therein comprehended in such manner as the aforesaid parcel of lands are surrounded and encompassed by the North River, the Kill Van Kull and the aforesaid direct line from the rock above Weehawken till above Siskaes where it is divided by the channel."

This description contains a large extent of country, the whole of the modern county of Hudson lying east of the Hackensack River and a large part of what is now Bergen county. It included all of Hobo-

ken, Jersey City, Bayonne, Bergen Point, Harsimus, Communipaw, Pavonia and other localities adjoining these places. The deed made by the Indians was executed by nine Sachems, with their marks, some of which are quite picturesque and striking. There are some peculiarities connected with this description which should be explained. The word "till" meant "to," in the language then used; "Wiekhacken" is Weehawken; the "*great rock*," a translation of the Dutch word "clip," referred to the palisades; "Constable's Hook" is now Bergen Point, the most southern part of Hudson county; "Siskaes" is the present Secaucus, a portion of upland lying north and east of Snake Hill and running to the northern roots of that elevation and called an island because it is surrounded by salt meadow, which at certain seasons of the year, when this description was prepared, was covered with water. No explanation can, however, be given of the description which is entirely satisfactory.

Some suppose that the name Bergen, applied to the trading post and town, was given in honor of the Norwegian city of the same name which for nearly four centuries had been a prominent member of the Hanseatic League and had attained to great importance, not only from its connection with that famous mercantile union, but also, from its own inherent strength. But there is some good reason for believing that those localities were named for Bergen-op-Zoom, in Holland, a small town, it is true, but historically famous and prominent for its position as a fortress and a protection to the surrounding country in the many wars in which Holland had been engaged. The Dutch were proud of their country, of its ancient history and of the localities which had adorned its annals by the prowess of their inhabitants and their loyal adherence to the fatherland in times of peril.

The country thus bought from the Indians, or a portion of it, at least, had been conveyed some time before this, and under quite peculiar circumstances. The investment of the Dutch merchants in the New Netherlands had not been profitable; no permanent settlements had been made outside of New Amsterdam and Fort Orange, and their expectations had not been realized even in those localities; indeed, they had been a constant source of expense. Agriculture received no attention, not enough ground being cultivated to raise the corn necessary for the support of the colonists. The immigrants came simply for the purpose of gain; they made their way into the country to visit the Indians, to barter with them for their peltry; they built no houses

and no factories; cultivated no farms; they were traders merely, not settlers. What were needed were actual permanent settlers, who would bring their families with them and become attached to the soil, who were artisans, manufacturers and farmers. But the mechanics and workmen, the manufacturers and peasantry of Holland were either too poor, or too much engrossed in their several callings, in their native land, to transport themselves with their families and their belongings to the new country, however desirable it might be for them. So, peculiar privileges were offered to capitalists; confined carefully, however, to the members of the West India Company, who would, within a certain time, form permanent colonies of fifty or more, any where within the main colony, but outside of Manhattan Island. This plan finally eventuated in granting large estates of land to several individuals, who thus became in a measure feudal lords and were called "*Patroons.*" Large manors were granted, one of which, at least, remained in the family of the original grantee, until the early part of this century. That grantee was Kilian Van Rensselaer, whose land thus granted included three counties, Albany, Rensselaer and Columbia and was greater than some German principalities. His manor was a specimen of the grants made in pursuance of the policy thus inaugurated. It was proposed to extend this system into New Jersey, where the same difficulties relative to the settlement of the colony existed as in New Netherlands, and several large grants of land were made to individuals, but always to members of the West India Company. One of these grants was made to Michael Paauw, on the 12th of July, 1630. He was a director in the company, a burgomaster of Amsterdam, in Holland, so he must have been a man of consequence, not only in the new colony, but in his native land. The grant made to him undoubtedly covered a large portion of the land which twenty years and more afterwards was conveyed to Stuyvesant and others by the aborigines and which included what was afterwards known as Bergen. This land conveyed to Paauw was thus described in the Indian deed: "the land called Hobocan Hacking extending on the south side to Ahasimus, eastward along the river Mauritius and on the west side by lowlands." This is the first time the name Hobocan appears in the history of New Jersey in any form; it is found afterwards spelled in many different ways, but is now known as Hoboken. The place called Ahasimus is now Harsimus, and is south of the stockade at Bergen, west of Jersey City and near the southern extremity of Hudson county. Hudson

River had been named Mauritius by the Dutch, in honor of Prince Maurice, stadtholder of Holland and son of William the Silent.

On November 22, 1630, Paauw received still another grant for the following described land: "the aforesaid tract, Ahasimus and Aresseck [the Indian name for Jersey City], called by us the Whore Hook, stretching along the river Mauritius and the Island of Manhattas on the east side, Hobokan Hacking on the north, surrounded by swamps which serve as distinct boundary lines." This last purchase of Paauw was an exceedingly unpopular measure. The bank of the Hudson between Communipaw and Weehawken was important both to the savage and the European. The Indians brought thither their furs to carry them across the river to the fort and the traders came there to meet them. So that it became a place of resort for both Europeans and natives. The Company, itself, became restive and many of its directors questioned not only the propriety of the grant, but also, its validity. Their real reason undoubtedly was a jealousy of Paauw fearing that he was monopolizing the land and that, possibly, there might be none left for them. All this led to unfortunate quarrels and checked the growth and prosperity of the colonies. The quarrels grew so bitter that, at last, in 1633, it was resolved to call the patroons, including Paauw, of course, against whom the proceedings were more particularly directed, to an account. On the 13th of May, 1634, a summons was directed to Paauw to appear before "some lords of our Assembly," on the 22d of May then instant, at the Hague, to answer the complaint. The summons did not specify to what the patroons would be required to answer. Paauw believed his position to be impregnable, as indeed it was, and at first sturdily refused to abate a particle of what he deemed to be his just rights, but the other patroons compromised. Paauw had proceeded to occupy the granted land as well as he could; he even gave a name to his colony, latinizing his own and calling the settlement "Pavonia," which name is retained to this day, not for the whole grant, but for a locality within its bounds.[1]

There was much talk before "some lords of our Assembly" and the hearing was adjourned; negotiations were entered into between the litigants and finally Paauw, although not disposed to surrender, was not averse from peace, nor from making a few dollars; he sold his claim to the West India Company for twenty-six thousand florins, a

[1] Paauw means Peacock; and Pavonia is taken from the Latin Pavo, the name of that bird.

sum equal to ten thousand four hundred dollars, an enormous amount of money in those days. This ended the controversy, quiet was restored, and the colony was able to resume its work of securing immigration.

On the 4th of August, 1661, the colony had assumed such proportions that it was deemed necessary to provide it with a municipal government, and on that day a request was forwarded to the Dutch authorities at New Amsterdam for the appointment of a Schout for the town of Bergen. This office is equivalent to that of county sheriff, in England, but had combined with it the performance of other duties, partaking of those of judge and prosecuting attorney. On the 5th of September, 1661, a commission was issued to Tielman Van Vleek, as Schout. He was a notary public and seemed to be a prominent man in the colony. This commission bore the name of Petrus Stuyvesant, Director General. On the same day a court and village government for Bergen were organized.

It is claimed that the first house ever erected in Hudson county was one of two, which Wouter Von Twiller, who succeeded Minuit as director-general in 1632, directed to be built at Pavonia. In that year, Engelbert Steenhuysen was secured as schoolmaster, and the first school was established at Bergen.

In 1664, as has already been stated, New Netherlands and its colonies passed into the possession of the English by the conquest made by Col. Richard Nicholls. This event did not affect the prosperity, or future, of Bergen. It simply worked a change of rulers; no disturbance was created; no lives were lost; no property was destroyed. The inhabitants and their municipal officers were obliged to swear allegiance to the king of Great Britain and acknowledge his authority. This was done and then the affairs of the colony went on as usual. On the 30th of August, 1665, Philip Carteret, the governor of New Jersey, under Berkeley and Carteret, recognized the court and town government at Bergen and appointed citizens of the village to the necessary offices. In 1668 the people of Bergen elected Gasper Steenmetts and Balthasar Bayard deputies, or representatives, to the Legislature of New Jersey which met on the 26th of May, of that year.

On the 22d of September, of the same year, Philip Carteret, as governor of New Jersey, granted a charter to Bergen, which is a most remarkable document. The land which was to be subject to the government of the municipality was particularly described, was said to

contain 11,520 acres, to be one and a half miles in breadth at its northern end, which ran on the west to the Hackensack River and to be twelve miles in length. It comprised within its bounds all there is of the modern county of Hudson, lying east of the Hackensack River and Newark Bay. By this charter, fifteen pounds sterling of English money, seventy-five dollars of modern currency, was to be paid to the Lords Proprietors as a quit rent; all freeholders in the colony, who would swear allegiance to the king of Great Britain and fidelity to the Lords Proprietors, were to be accounted as Freemen, to have a free voice in election and to enjoy all the rights, immunities and privileges granted to the township; two deputies to the Legislature were to be elected from the town; the freeholders were to have power to elect the magistrates who were to be assistants to the president or judge of the court, provided that one of the magistrates should be selected from a particular locality within the colony; the freeholders were also to have power to elect a justice or justices of the peace and military officers; subject, however, to the approval of the governor, by whom they were to be commissioned; the freeholders also were to have power to choose their own minister, and all the inhabitants were to contribute to the support of the minister thus chosen, according to their ability; full liberty of conscience in all religious matters was guarantied, provided that "this liberty granted shall not extend to licentiousness, or the disturbance of others and the public peace;" free trade was allowed; no tax, excise, customs, or any imposition whatever was to be allowed, unless it was assessed for the purpose of defraying the expenses of the government; all rates and assessments relating to the corporation should be raised and levied by these justices and magistrates; provision was made in the charter for the institution by the inhabitants of a court and its proper officers, from whose judgment there should be no appeal, unless the amount recovered was more than five pounds; trial by jury of six or twelve men was required and no citizen should harass any inhabitant of the colony by seeking relief in any court outside of those which might be established by the inhabitants of that colony. These were generous terms and far in advance of the ideas of the times which controlled the governments of Europe.

Bergen is no longer a distinctive locality by itself, its name even is gone, except as it lingers in that of the county, which does not contain a foot of the ground included within the bounds of the locality formerly known as Bergen; or in Bergen Point, or in Bergen Four Corners, which are fast disappearing as names of well known localities.

Some reference, but not enough, has been made to the first settlement of Elizabeth Town. For many years it was the seat of government of New Jersey. The Legislature frequently met there, the governor lived there and it was at one time the most important locality in the province.

The first Europeans who saw the land upon which the town was built were a few of the seamen who were on board the "Half Moon," with Henry Hudson, when he made his memorable visit to New York Bay. It was on Sunday, the 6th of September, 1609, that John Coleman and four others, while prospecting in Newark Bay and in the Kills, came in sight of the mainland of New Jersey. Just, in his narrative, thus described the scene: "Very good riding for ships; and a narrow river to the westward between two islands. The lands were as pleasant with Grape and Flowers and goodly Trees, as *euer* they had seen and very sweet smells came from them." So, John Coleman and his four fellow seamen must have been the first discoverers of Elizabeth Town. But no serious attempts were made at any settlements on so inviting a spot. The traders who, as early as 1613, built a rude trading post at New Amsterdam, sent their followers into the streams and estuaries on the shores of New Jersey, to establish a trade in peltries with the natives. The Indians, whom John Coleman found on the mainland on Newark Bay, had taken his life and badly wounded one of his companions. This may have deterred the Dutch from visiting the natives in that vicinity, but a large trade in the commodities produced by the aborigines, very soon sprung up between them and the Dutch in other parts of New Jersey very near where Elizabeth Town was afterwards built. The cruelties which, unprovoked, on several occasions the Dutch practiced on the unsuspecting natives prevented the Europeans from making any extended visits into the country. They preferred the protection of the fort and garrison at New Amsterdam. But their greed finally overcame their fear and somewhere about the year 1651 a serious attempt was made to form a colony in the locality seen by Coleman and his associates on that 6th of September. In pursuance of the plan so much favored by the Dutch, of parceling out the country over which they claimed ownership into principalities, or manors, to wealthy Hollanders, grants were made of large extents of land to several persons.

Among the adventurers who had come in 1633 to New Amsterdam, in search of fortune, was Augustine Heerman, a Bohemian. He had,

by his shrewdness and energy, accumulated a fortune and made himself influential in his new home. Cornelis Van Werckhoven, a prominent officer of the city of Utrecht, had directed his attention to the new land beyond the sea and had resolved to become one of the patroons under the West India Company. Accordingly he notified that company of his intention and a commission was given to Heerman to select the land and to make the purchase. The negotiations were entered into with the owners and a large extent of country adjoining Elizabeth Town, was purchased for the Honorable Cornelis Werckhoven. The description of the land thus bought, as it appears in the deed, is unintelligible to modern readers, as the boundaries are given with Indian names which have long since passed from the memory of man. It is certain, however, that the country conveyed to Werckhoven included the land lying on Raritan River and between that stream and the Passaic and west of Staten Island. But the Utrecht Schepen became too greedy in his desire to monopolize the land in East Jersey; he secured three other grants, one of which was for a tract south of the Raritan, and two on Long Island, and thus excited the jealousy of others equally as greedy as himself and contests arose between Werckhoven and other speculators. The Amsterdam Chamber of the West India Company was called upon to settle the controversy and it decided that Werckhoven could only hold one tract at a time. He was obliged to select one from his four grants and to surrender all the others. He selected one of the two made to him for land on Long Island where he founded New Utrecht, which he named after the city of his abode. It is, of course, not within the province of human ken to foresee what would have been the result if the wealthy Dutchman had succeeded in retaining his New Jersey purchase. But in all human probability, it was well that he failed, as the class of immigrants who afterwards colonized Elizabeth Town were entirely different from those whom the Hollander would undoubtedly have induced to settle there.

In September, 1665, the natives, driven to despair by the constant cruelties of the Dutch, slaughtered the settlers at Pavonia, Hoboken and on Staten Island. This horrible occurrence delayed the settlement of New Jersey by the Hollanders, and the terrified and demoralized settlers fled for refuge to the fort at New Amsterdam, abandoning their property and fleeing for their lives.

About this time, the Protector, Cromwell, died and Charles II was

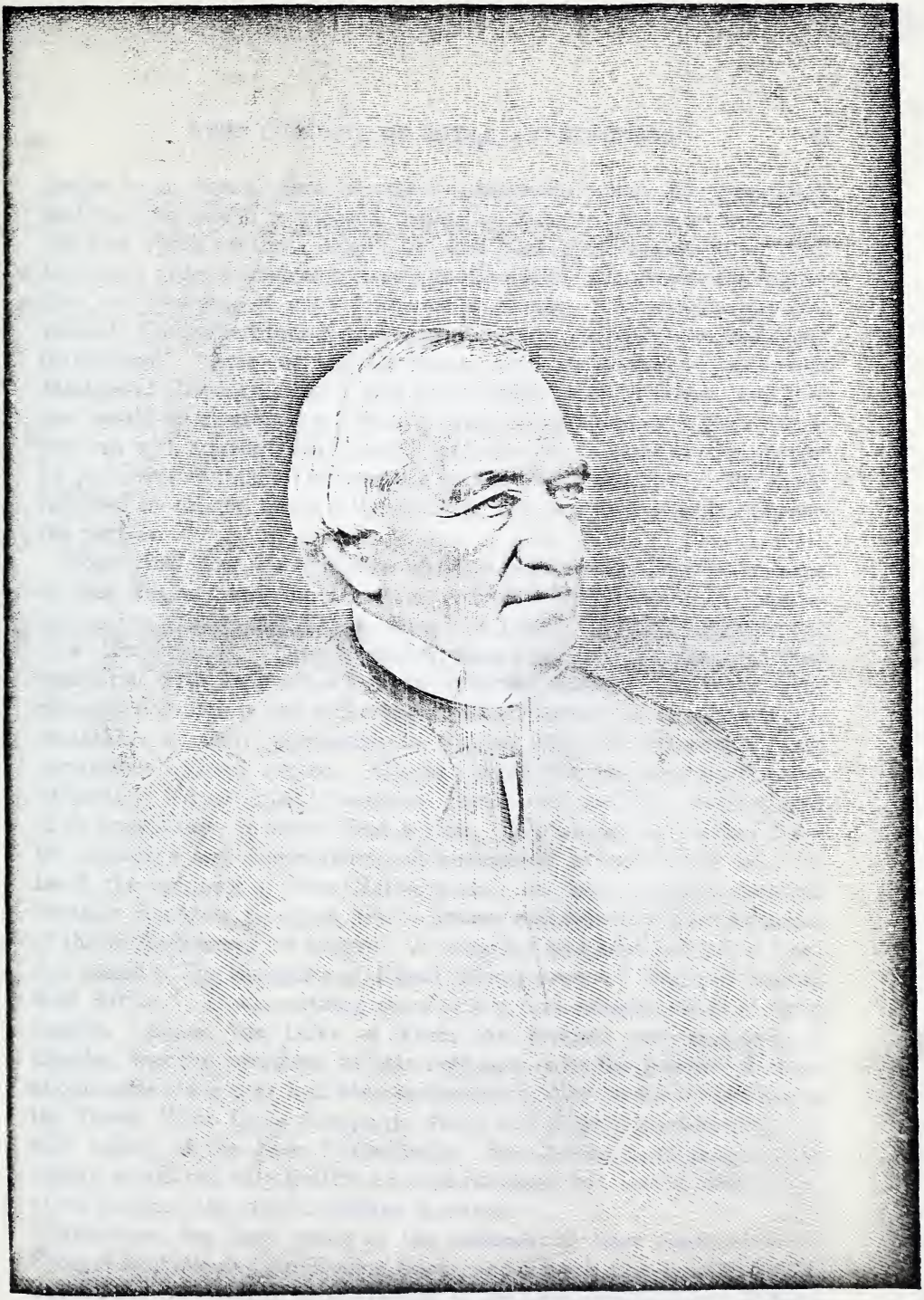
restored to the throne of his fathers. During Cromwell's time there had been no intermeddling with the colonists in New England, in the management of their governmental affairs, nor had Cromwell, though often solicited to do so, interfered with the Dutch at New Amsterdam, but now that the despotic king, with his leaning towards Rome, was restored, a feeling of fearful anxiety agitated the Puritan communities in New England. They feared that there was no safety for them with Charles as king, so they began to look around them for a new home. A still larger number of those who were strongly imbued with Puritanic modes of belief, and who had remained in England, shared in this feeling of disquietude, and they turned their longing eyes towards the new world with the hope that they might find there a haven of rest. Many of these New England Puritans had passed over the narrow sea which divided their new home from Long Island and had established themselves there. There had been some previous negotiations between them and the Dutch authorities at New Amsterdam, looking toward a settlement in New Jersey in the very land which had been purchased by Werckhoven. But there had been a failure in making any arrangements, as the sturdy Puritans were persistent in making demands which the almost equally sturdy Dutchmen were unwilling to grant. The Englishmen claimed the right to govern themselves, independent of the authorities either at New Amsterdam or in Holland; they also claimed the right to settle their legal controversies in their own courts without appeal to those established in New Netherlands, either as tribunals of original or appellate jurisdiction. They required the Dutch to purchase the land for them from the Indians and to make full conveyance to the associates of the land thus purchased, forever, and they also insisted that they should be allowed to exclude all such from the land they proposed to occupy, as could not pass the scrutiny of their town meetings. The Dutch agreed to all these demands except that of self government. The Puritans, however, were resolute and would not yield this point. The death of Cromwell and the accession of Charles led to a renewal of the negotiations which progressed so far that the matter was sent to "their high mightinesses, the States General," who referred it back to Stuyvesant with the advice to him to insist as long as possible that in certain criminal proceedings the Dutch courts should have jurisdiction exclusive of the Puritan, but that, if it became necessary to secure such desirable immigrants, finally to yield the points, if advisable, in his opinion. The doughty Peter was not

obliged to resort to this diplomacy, for the Puritans withdrew from further negotiations and sought a home elsewhere. In the course of these transactions Robert Treat, afterwards prominent in the settlement of Newark, visited New Amsterdam, with other representatives from the New England colonies. He was received with great honor by the authorities of New Netherlands, and on his return was quite enthusiastic in his praise of the Dutch.

The States General, taking advantage of the situation, in 1661 issued an invitation to "all christian people of tender conscience in England or elsewhere oppressed, to erect colonies anywhere within the jurisdiction of Peter Stuyvesant in the West Indies, between New England and Virginia, in America." A charter for any settlement which might thereafter be made, was prepared, containing the most liberal terms and conditions, which was approved by the Dutch authorities. But the movement which dictated the preparation of this charter did not eventuate in any definite action so far as any settlement under the authority of the Dutch government was concerned. A party of about twenty Englishmen visited the Raritan River, after sailing down the Connecticut, and while there, attempted to buy land from the Indians, but were intercepted by a Dutch force sent out against them, and driven off.

Most of these efforts at negotiation with the Dutch were made by communities in New England, where they were threatened with the abrogation of a law which provided that no one should vote or hold land unless he were a member of a Congregational Church. Efforts were also made by individuals for a settlement in New Netherlands. The letter written by a New England settler, which initiated one of these individual attempts, is so quaint and so unique that it is copied *verbatim et literatim.* It is addressed to Captain Bryan Newton, one of Stuyvesant's Council:

"Worthy Sir: after my due respects p'sented unto you these few lines ar to request a kindness of you taking you to be my spetiall friend, and know no other like yourselff to intrust in such a Case as this; the thing I dezier and some others with me is this: that you would be pleased to take the first and most sutable oppertunity to speak with the honored governor, deziring him to resolve you in these particulars first, whither or no that place upon the mayne land which is called Arthur Cull be free from any ingagements secondly if free, then whither or no he will be pleased to grant it to a Company of honest men that may



Joseph P. Bradley



dezier to set doune there to make a plantasion under his gouerment and that you would be pleased hauing so done to return an answer by the first which we shall weight for, and hauing incoragement we shall forthwith order ourselues to treate further with him aboute the matter thus not doubting of your faithfulness herein. I take leaue and rest yours to Comande From Huntington February 15, 1650 John Sticklen" (Strickland) "lette me inticate you to send the answer to Sarnawell Mathies at Riesdorpe that it may be conveied to me in safety; and that you would be pleased that it may be kept secret houeuer it goe. Sr. if you can w'th convenience I would intreate you to send me an answer by ye bearer of this, all convenient speede being requirit." This was followed by others, but is a specimen of the best that passed between the parties.

There had been considerable attrition between the English colonies of New England and the Dutch in America, long before the restoration of the Stuarts and almost since the Dutch had had possession of New Netherlands. They clashed in their claims to the country; they interfered with each other's trade with the Indians and there were constant complaints and bickerings. The English made many representations of their grievances to Charles after his restoration, but apparently without success. Charles, if he did not like his Puritan subjects in New England, hated the Dutch more and was only too glad of an opportunity to strike them a blow. He was at last roused from his indolence and debauchery and undertook, as has already been related, the conquest of New Netherlands. He had, however, received another incentive to drive him to action, and this only gave evidence of the wickedness of his nature. A company had been formed in London called "The Company of Royal Adventurers of England trading with Africa." It was nothing more or less than an association of slave traders. James, the Duke of York, the brother and successor of Charles, was the president of this company. In the pursuit of their abominable trade they had been seriously crippled by the operations of the Dutch West India Company, which was largely interested in the new colony of the New Netherlands. So, Charles in striking at that colony would not only gratify his own revenge, but would satisfy that of his brother, the royal trafficker in slaves.

Reference has been made to the conquest of New Amsterdam by Colonel Nicholls and Sir Robert Carre, and to the fact that Nicholls, despite the conveyance by his master to Berkeley and Carteret, of New

Jersey, had made a grant to settlers of land in that province. When Philip Carteret reached Elizabeth Town with his little band of immigrants he found, already established there, at least, the four families who came from Jamaica under this grant from Nicholls. Governor Carteret reached Elizabeth Town in the month of August, 1665, and with him came eighteen laborers, some women, and Robert Vauquellin, a Frenchman and a practical surveyor, who was accompanied by his wife, in all, thirty persons. Before Carteret landed at Elizabeth Town he had visited Nicholls at New York, as New Amsterdam had been called since its conquest by the English. It was on this occasion, in all probability, that Nicholls learned for the first time of the grant of New Jersey by the Duke, to Berkeley and Carteret, which so disturbed his equanimity. When Carteret landed from his vessel on the main land, near the settlement of the four families from Jamaica and their associates, he was met by the settlers who had established themselves some distance further inland. That settlement was on the stream since then, and now, called Elizabeth Town Creek, on both sides of which the home lots of the settlers had been set off to them. Carteret marched with a hoe on his shoulder at the head of his own followers and the town's people from the shore, up to the village which must then have been built. By this act the governor doubtless intended to give notice that, in his opinion, agriculture was the true basis and foundation of the best interests of the colony and that he purposed to introduce the arts of husbandry for its growth and prosperity.

In the interview with Nicholls at New York, he must have been told of the fact that the four families from Jamaica and their associates were already settled at Elizabeth Town; how they came to be there and the circumstances connected with the Indian deed and its confirmation by Nicholls and the rights of these settlers must have been discussed and determined. On the other hand Carteret must have disclosed to Nicholls all the circumstances connected with the grant made by York to Berkeley and Carteret; and the commission to him, as governor, from the Duke's grantees undoubtedly was exhibited to Colonel Nicholls. When Governor Carteret reached Elizabeth Town there was no difficulty between him and the settlers; they remained in full possession of their houses and the lots which had been set off to them in the division of the land bought from the Indians.

That these four families from Jamaica and their associates were the first European settlers at Elizabeth Town is undoubted; the date of

their settlement there can be approximated with some definite certainty. It must, however, be established, if established at all, by circumstantial evidence. It is probable, nay, almost certain, that town records were kept by the first inhabitants; they were, it is true, few in number, but they were of the same stock as those who, very soon afterwards, settled Newark. The settlers at "our Town on the Passaic" were very careful in keeping exact accounts of their municipal transactions and their relatives and friends at Elizabeth had been taught order and law in the same schools. If any such records were kept at Elizabeth Town, they have been lost; if they were in existence their testimony would be invaluable. Resort must therefore be had to other circumstances to settle the date now under discussion.

On the 26th day of September, 1664, the men of Jamaica made their application to Governor Nicholls for the grant of lands in New Jersey. Nicholls promptly granted the petition on the 30th of the same September; the Indian deed to these Long Island people is dated the 30th of October following and that Indian deed was confirmed by Governor Nicholls on the 1st day of December of the same year. By the terms of this conveyance, four hundred fathoms of white wampum were to be delivered to the grantors after a year's expiration from the day of the "entery" by the grantors upon "*ye said lands.*" On the 18th day of August, 1665, a receipt is appended to the deed of one hundred of the four hundred fathoms of white wampum which, according to the deed, were to be paid in one year's time after entry made on the land and by another receipt indorsed on the deed November 21, 1665, an acknowledgment was made that certain articles therein specified had been received "in full payment of this obligation." The conclusion therefore is logical and inevitable that if the four hundred fathoms of white wampum were delivered in November, 1665, and if that payment were promptly made within one year after entry on the land then the first settlement at Elizabeth Town must have been made some time in the autumn of 1664 and by the four families from Jamaica and their associates. This view is strengthened by reference to the dates of the several documents preceding the execution of the deed by the sachems. It is to be noticed also that in the petition to Governor Nicholls it is stated that some of the petitioners were "*destitute of habitations*"; and the governor's answer was therefore craved "*with as much expedition as may be.*" To any argument drawn from this circumstance it may be objected that it was at a season of the year when it was very improbable that so serious

and dangerous a movement would be made as the removal of women and children to an unknown country and subjecting them to the rigorous severity of winter. But, it must be remembered, that the necessity of providing habitations for themselves was fully set forth by the petitioners and no other inference can be made from this fact than that their need in that respect was immediate and imperative, and it is altogether probable that on receiving the favorable answer of Governor Nicholls instant measures were taken for proceeding to their new home. The women and children of those times were inured to hardship and the transfer from their Long Island home to New Jersey was not a very difficult task.

A controversy between the citizens of Elizabeth Town and the Lords Proprietors originated after this time, but about the period of the occurrences just narrated, Governor Carteret put himself on the record under such circumstances that it would seem that he precluded himself, and, so far as his action could do so, estopped his principals from making any objections to the Indian deed and to its confirmation by Governor Nicholls. The Indian deed and the grant by Nicholls were both made to individuals who were named in the deed and grants, "*and their associates*," who were not named. On the 8th of September, 1665, John Baylis, one of the original grantees of the Indian deed, conveyed to Governor Philip Carteret his part of the property belonging to him, as one of the associates. In this deed Baylis thus described the premises he intended to convey: "all and every my lott or lotts part or parts of a certain piece of land scituate lying and being on the maine Continent of America commonly called or known by the name of Arthur Cull or Emboyle, or whatever name or names soever it had been or now is called by which said parcel of land he the said John Baylis with several others did *lawfully* purchase from the natives or Indians as by his said Bill of Sayle from the Indians, bearing date the 28th of October, 1664, will more at large appear, which was *confirmed* by his Royal Highness Territorys in America, his grant bearing date the first day of December, 1664." This was not the only transaction of the kind in which Governor Carteret was engaged about that time. He purchased other property from other associates, notably one from Capt. Robert Sealey, and he also became enrolled as one of the associates and called himself an associate. It would seem therefore that Governor Carteret was most effectually estopped from denying the title made by the deed executed by the sachems and confirmed by Gover-

nor Nicholls. He received a deed for land which declared that it was *lawfully* conveyed by the Indians and confirmed by Nicholls. It must be evident that, at that time, he did not expect ever to raise any objection as to the validity of that Indian deed, nor to the legality of its confirmation by the governor.

The historians who have written of New Jersey, with perhaps barely one exception, have either boldly stated, or, at least, intimated in strong terms that Governor Carteret and his thirty immigrants were the first settlers of Elizabeth Town. They do not seem to discriminate between the four grantees of the Indian deed and their associates, and Carteret and his motley band of immigrants. These were mostly servants, eighteen of them certainly were, and they were all, or very nearly all, Frenchmen, or persons bearing French names. They were possibly English subjects, born on the island of Jersey, but of French blood, and some of the thirty immigrants were women. There were only two gentlemen, or persons recognized as such, according to the notions of those times, besides the governor, among them, and they were Capt. James Bollen and Robert Vauquellin, a Frenchman, a surveyor, who afterwards became surveyor-general of the province. Bollen was an assured follower and devoted friend of the governor, whose cause he espoused with unswerving fidelity and unquestioning adherence, during all the future troubles between him and the people. He was clerk of the town and afterwards secretary of the Council. Carteret and his immigrants, it must be remembered, arrived at Elizabeth Town in August, 1665. On the 19th of February, 1665, six months before they landed, sixty-five inhabitants at Elizabeth Town took the oath of allegiance. This was at a town meeting of the voters of the settlement held on the day when the land was divided into town lots and allotted to the colonists. All the males of the colony were obliged to attend that meeting, to take this oath. The names of those who subscribed the oath are given, but that of John Baylis does not appear among them; he was away on business for the governor in pursuance of directions received from London. If he had been at home he would undoubtedly have signed. The names of those who took that oath on that wintry day are perpetuated by some of the most worthy and respectable families of the city of Elizabeth to-day; Woodruff, Ogden, Crane, Carter, Moore, Marsh, Oliver, Tucker, Price, Bond, Whitehead, Meeker, Bonnell, Hatfield, Headley, Parker, Barber and others.

Mention has been made of the associates of the four grantees of the

Indian deed. It would aid greatly in establishing some suppposed, but really unknown, facts relating to the first settlement of Elizabeth Town, if the truth relative to these associates could be learned. There is a record in the town book of Elizabeth Town, which may give aid in that direction. Fifty years after the date of the first settlement there appears this record: "Richard Nicholls, by virtue of the power and authority vested in him by James (then) Duke of York, &c., Did thereby Grant Bargain sell and confirm unto Capt. John Baker (then) of New York, John Ogden (then) of North Hampton and John Bailey and Luke Watson and their associates the premises afores'd in ffee simple, which same associates (together with them the sd Baker, Ogden, Bailey and Watson equally seized Each to a third Lot-right in the premises), were the said John Baker, John Ogden, Jno. Bailey and Luke Watson and with them Thomas Young, Benjamin Price, John Woodruff, Philip Carteret, Two Third lotts, Robert Bond, Sealy Chapman (Transfer'd to Benjamin Parkhurst) William 'Meeker, Thomas Thompson, Samuel Marsh, Town Lott for the minister, Will'm Piles, Peter Covenhoven, John Brocket (Transfer'd to Sam'l Hopkins) James Bollen, Jacob Melyen, Nicholas Carter and Jeremiah Peck. *And*, To each a Second Lot-Right in the same Premises, Isaac Whitehead, Joseph Meeker, Humphrey Spinning, Jeoffry Jones, George Ross, Joseph Bond, Matthias Hetfield, Barnabas Winds, Robert White, Peter Morss, John Winans, Joseph Sayre, Richard Beach, Moses Thompson, John Gray, William Johnson, John Brockett, Jun'r, Simon Rouse, William Trotter, John Ogden, Jun'r, Jonas Wood, Robert Morss, Mr. Leprary, Caleb Carwithe, William Pardon and Stephen Osborne. *And* to each a first lot-Right in the same Premises. Jonathan Ogden, Abraham Shotwell, David Ogden, Nathaniel Tuttell, Benjamin Price, Jun'r, Roger Lambert, Abraham Lawrence, John Hindes, Thomas Moor, Joseph ffrazey, Yokam Andross, Denis White, Nathaniel Norton (since transer'd to Henry Norris) Great John Wilson, Hur Thompson, Benjamin Oman, Evan Salsbury, Little John Wilson, Stephen Crane, Henry Lyon, John Parker, John Ogden, Jr., John Dickinson, Leonard Headley, Nathaniel Bonnel, George Morris, Joseph Osborn, Pardey, (Transfer'd to Henry Norris) George Pack, John Pope, ffrancis Barber, William Oliver, Richard Painter and Charles Tooker."

There were eighty of these associates, if this last extract be correct. Whether they all came to Elizabeth Town at the same time is problematical; it is not probable that they did. But it is certain that many of them

named in this record, forty in all, took the oath of allegiance on the 19th of February, 1665, and must have been at Elizabeth Town on that day. Many of the present inhabitants of Elizabeth and adjoining towns will recognize their ancestors in this list of worthies. It is now manifest that Philip Carteret and his thirty immigrants had little, if anything, to do with settling Elizabeth Town; when he landed he must have found quite a town there with perhaps two hundred inhabitants. Neither could they have exercised much influence in moulding the future of the settlement. Carteret was a youth of twenty-six years and although he showed some ability and a determination at times, yet in emergencies when he ought have risen superior to fear, he evinced a lack of courage which manifested that he was not equal to the demands made upon him as a ruler of a growing province, in a strange country, where firmness and intensity of purpose were required.[1]

The immigrants, who accompanied Carteret, were not qualified either by character, influence or education to make themselves felt by the community into which they were introduced. They made no impression whatever on the people or the State, and are never heard of again, with perhaps one exception, Mr. Robert Vauquellin, who filled quite a prominent position in the colony. He was, as already stated, afterwards surveyor-general, became a member of the Governor's Council and met with the first Legislature

The real founders of Elizabeth Town, the promoters of its best interest, its most permanent advantages, were to be found among the eighty associates; those sturdy, self-denying, God-fearing Puritans who left the mother country and their new homes in New England for conscience's sake and for principle. It is possible that earthly motives may have entered into the inducements which led them to New Jersey, but, undoubtedly, the main impelling force which sent these associates thither were the liberal concessions and generous promises made in the "grants and concessions" which had been scattered all through New England in the early part of 1664.

In 1661 a glowing description of the province had been published which expatiated on the goodness of the climate; the wonderful variety of its productions in fruits, vegetables, trees and grains; of the numer-

[1] On page 41 of this history, reference is made to the settlement of Elizabeth Town. It is there stated that Carteret and his thirty immigrants with the four families already there, founded that ancient and venerable town. This is an error. Investigations made since that page was written have compleletly satisfied the author that he was mistaken. It is hoped that the error is now completely corrected.

ous kinds of game, fish, minerals, and of the exceeding fertility of the soil. If the account were to be believed, it was a veritable earthly paradise. As early as 1650, the natural beauty of the country, its great productiveness and its beautiful scenery had been described in most enthusiastic terms.

This was the country to which came these hardy settlers imbued with the peculiar religious tenets of their Puritanic faith, and these were the elements with which this new colony was to begin the battle with the wilderness; subdue its savage fastnesses; to introduce the arts of a cultivated and educated life and interject a christian civilization into this western world. In some respects they seemed unfitted for those high ends, but they had peculiarities of temperament and culture which placed them in the front of the battle. The governor sent them from the mother country was of little aid; they were the real heroes, the true contestants in that noble strife.

The enterprise had not been undertaken without thought, examination and discussion. Persons with wisdom and large experience were sent to view the land where the settlement was proposed to be made; the prospects and other circumstances connected with the undertaking were discussed, and doubtless, the blessing of Almighty God was invoked for guidance.

It was agreed that the land of the colony should be divided among the immigrants in the following proportions, according to the amount of money paid; first, second and third lot; the second to be double, and the third, treble the first. But whatever may have been the rights of the settlers as to the division of land, in the allotment of homesteads all settlers were on the same footing, each receiving a lot of six acres; the only difference being the location, which, as in Newark, was probably determined by lot. These home lots were laid out on both sides of the creek and the lands thus divided extended some two miles westward. There could be no exact regularity in these lots; the course of the stream, the conformation of the land and other circumstances undoubtedly prevented that.

Very soon immigration began to pour in its scores of settlers who came mostly from the same source, New England, and were of the same class of people. Some came directly from Long Island, but originally from Connecticut and other parts of New England. For the first five or six years very few, if any, were emigrants from the mother country.

Like most of the towns in New Jersey the business of the municipality was conducted at town meetings, and of these meetings a correct record was kept for nearly fifty years, or until 1718, when the town records disappeared in some mysterious manner, the probability being that they were stolen or destroyed by some person interested in their destruction. Fortunately, some few extracts from them have been preserved, from one of which a glimpse may be obtained of the growth of the town. In 1665–6, this appears: "At a meeting Court held at Elizabeth Town in the province of New Jersey, the 19th of February, 1665–6, by the Freeholders and Inhabitants thereof, James Bollen, Esq., President by the approbation of the Governor Philip Carteret, Esq., it was concluded and agreed that the aforesaid town shall consist of fourscore families for the present and that if hereafter more shall present they may make an addition of twenty more, according to their discretion for the good and benefit of the town (as to them) shall seem fit." This is certified to be "A true copy from Elizabeth Town Book of Records, No A. fol. 14. per"

"SAMUEL WHITEHEAD, Town Clerk."

The number A, of this Book denotes that it must have been the first record kept. The number of the page also denotes that the record of some town meetings must have preceded that particular entry. The town was settled in the autumn of 1664. This record was made in February, 1666, according to modern methods of computing time. The town meetings were held annually, but, in the early history of the town it may have been necessary to convene the voters oftener.

Elizabeth Town sent John Ogden, jr., and Jacob Mollins as their deputies or representatives to the first Legislature of New Jersey. These men both took the oath of allegiance, Mollins as Moullaines, and both are named among the eighty associates, Mollins by the name of Melyen.

Newark was settled two years later than Elizabeth Town, by the same class of people—Puritans from New England. The immigrants at Newark were made of sterner stuff than those of Elizabeth Town, but there was always a brotherly feeling between the two communities; it could not be otherwise.

The first colonists at "our Town on the Passaick" took instant measures, as soon as possible after their arrival, to make an equitable division of the land among the settlers, according to the "Fundamental Agreements." They accordingly laid out three main streets, the Broad

Street, the West Back Lane and the East Back Lane, now called Broad, Washington and Mulberry Streets. After providing that the inhabitants of the principal localities in New England from which the colonists came, should not be separated, they divided the land fronting on these three principal streets into home lots of six acres each, then, meeting together, they invoked the divine blessing and proceeded to draw lots for the choice of the plots of land thus divided. They first resolved, however, that specified parcels should be devoted to certain purposes; the minister's lot; the watering place; the burying place; the training places; the market place; the boatman's lot; the mill lot and the elder's lot were those which were thus excepted from the division by chance. Robert Treat, who was the Magnus Apollo of the colony, was not required to submit his choice to hazard, but was permitted to make the first selection. His election showed the wisdom and the forethought of the man, for it fell on the premises on the southeast corner of Broad and Market streets, always the most valuable ground in the town.

After attending to these preliminaries, the people proceeded to draw lots. It can be determined to-day with perfect certainty which lot was drawn by each individual settler. A record has been preserved to this time of those who received their lands by this method of distribution. There is only one of the lots thus divided, any part of which is, to-day, in the possession of a descendant of the first proprietor. William Campe, one of the original settlers and one of those who signed the fundamental agreements, had alotted to him the ground now situate on the corner of Broad and Chestnut Streets extending southward towards what is now Pennington Street, and bounded on the east by the West Back Lane, as Mulberry Street was then called. One of his descendants, of the same name, still owns and occupies a portion of that ground. Until a very few years ago a part of another lot was occupied and owned by a descendant of Samuel Plum, former owner of the whole premises the title to which was acquired by lot.

So soon as the necessary settlement of the division of the ground to the colonists was determined, the people went diligently to work to improve their homesteads; to erect their modest homes; to provide for the wants of their families and to protect the town and people against the attacks of wild beasts. These first settlers of "our town on the Passaick" were bold men; ready for any emergency, but while mindful of present duties and provident for the future, they did not neglect to

provide the conditions for their spiritual and intellectual growth. They had brought their beloved pastor with them and he became one of the objects of their special care. As soon as circumstances would permit, they made haste to erect a house in which their minister, as they delighted to call their venerable pastor, could preach the word of God to his flock; then, that accomplished, they employed a schoolmaster and built a school house, thus providing for the education of their children. By a fundamental law of their colony only those who were members of a Congregational Church were allowed to hold office or to vote. The voters were therefore the Church and the State; each had the same interests and the same supporters; there was no division of their interests, and all were equally enlisted in providing at one and the same time for both. There was no strife, no bickerings; the colonists went on their quiet way, industriously striving to build up their own future and at the same time to strengthen and encourage the whole community.

At the town meeting held January, 1668, Jasper Crane and Robert Treat were chosen "Deputies or Burgesses, for the General Assembly, for the Year Insueing; and Lieut. Samuel Swaine is chosen as Third man in case of either the other Failing." Mr. Crane failed to attend and Robert Treat and Lieut. Samuel Swaine appeared in the first Legislature of New Jersey as the delegates or representatives from Newark. On the record Lieut. Swaine's name appears as Swarne, but this is a palpable error.

The land purchased from the Indians by the men from Jamaica was of much greater extent than was needed for the colonists at Elizabeth Town. That deed was made to John Bailey, Daniel Denton and Luke Watson and their associates. Denton's name is not mentioned in the confirming deed, but it was admitted by the other parties that he had an interest in the land. Governor Carteret and John Ogden bought the estate of Denton and Bailey and thus became with Luke Watson tenants in fee, in common, of the whole grant. An arrangement was made on the 21st day of May, 1665, with Daniel Pierce and his associates, to form two other townships out of the property conveyed by the Indian Deed. One of these was Woodbridge and the other Piscataway, adjoining each other, and both now in the county of Middlesex. Woodbridge is situated between Rahway and Perth Amboy, and at one time was annexed to Amboy. It had a prominent position in the colony in its early history. The Legislature was held there on several occasions; a

court house and a jail were built at this place; but it was not situated like Amboy, at the mouth of a large river and on the sea with an excellent harbor in front of it; nor like Rahway did it command a position suitable for manufacturing; it therefore remained only a pleasant country village, little more than a hamlet, with a Presbyterian and an Episcopal Church, an academy and a few stores.

On the 11th of December, 1666, Carteret, Ogden and Watson in consideration of eighty pounds sterling, conveyed to Daniel Pierce, for the purpose of carrying out the arrangement made in May preceding, one half of the tract "known as Arthur Cull or Amboyle;" extending from the Raritan River to the Rahway, or as it is called in the deed to Pierce, the Rackawack, and running back into the country an indefinite distance, but following the description on that line found in the Indian deed. On the 3d of December, 1667, this deed was confirmed by another of the same general character, on the back of which Pierce indorsed the names of his associates, who were Joshua Pierce, John Pike, John Bishop, Henry Jaques and Hugh March, or Marsh, of Newbury, Stephen Kent of Havahall (Haverhill?), Robert Dennis, of Yarmouth and John Smith of Barnstable in New England. The land thus conveyed to Pierce was laid out by him as deputy surveyor and each associate received his proportion. This was done very early in the history of Woodbridge. Two of these associates, John Bishop and Robert Denis, were sent as delegates or representatives from Woodbridge to the first Legislature of New Jersey and they were present and took part in the proceedings.

Daniel Pierce was appointed deputy surveyor and as such officer he not only apportioned the property to its owners, but also laid out Woodbridge by bounds, six miles square, as a township. On the 1st of January, 1669, Carteret granted a charter to Woodbridge of a character more liberal than any other ever granted in any country. This charter contained some most remarkable provisions. It granted perfect self government to the inhabitants; they had the power to institute courts; to elect their own magistrates, their military officers, their justices; to choose their ministers, to whose support each inhabitant was obliged to contribute according to his substance; two hundred acres of land were apportioned for the use of the minister and one hundred acres for a free school, which could never be diverted from these purposes, but should remain devoted to them forever; land was set apart, also, for building a church, a school house and for a market

place and these properties thus apportioned to these purposes were freed from quit rent; perfect tolerance in matters of religion was guaranteed for all denominations; any inhabitant differing from the others in religious belief might call any minister he pleased; all causes between citizens for the enforcement of contracts were to be tried by courts instituted by the inhabitants; criminals were also to be tried and punished, if convicted, by their own courts; imprisonment for debt was abolished, except in cases of fraud in the inception of the debt, or attempting to defraud creditors by leaving the country; free trade was established with no excise or tax except such as might be imposed by the Legislature for defraying public charges. These were some of the provisions contained in this wonderful document. It was signed by the Governor and his Council and afterwards confirmed by Berkeley and Carteret.

Woodbridge, at one time, contained within its bounds the city of Rahway, the flourishing village of Metuchin and some hamlets. But Rahway long since outstripped its parent township and became independent, and Metuchin is growing rapidly beyond it.

On the 18th day of December, 1666, a week after Daniel Pierce received his first deed, he conveyed a third of the land described in that deed to John Martin, Charles Gilman, Hugh Dunn and Hopewell Hull who, with some associates, formed the township of Piscataway. It was, at first, called New Piscataqua and is supposed by some to have received that name from a settlement in Maine called Piscataqua, whence came, as is claimed, some of its first settlers; but that is problematical. Piscataqua in New Jersey occupied the site of an old Indian village and it is more than probable that the name originated in some Indian appellation of that village or other neighboring locality. In the early history of the colony, courts were held alternately here and at Woodbridge; and, at one time, Piscataway was the seat of justice for Middlesex and Somerset counties. It is now an incorporated township with several villages included within its bounds, but has very little influence over the affairs of the State. It was not represented in the first Legislature, nor until the General Assembly which met on the 5th of November, 1675, when John Gilman and Hopewell Hull represented the town still called Piscataqua. Hopewell Hull was one of the grantees of Daniel Pierce and John Gillman, was probably a relative of Charles, another of his grantees. The first settlers seem to have been Baptists; the second Baptist church in New Jersey was established here by the first settlers, one of whom, Hugh Dunn, was the first preacher.

Middletown and Shrewsbury were included in the grant made by the Monmouth patent to which reference has been made.

A romantic incident is connected with the first settlement of Middletown. The exact date of the occurrence cannot be ascertained, but it was several years before Governor Carteret came to New Jersey and while the Dutch had the control of the New Netherlands, and about the time of the Indian wars in New England. A Dutch vessel sailing from Holland for New Amsterdam had nearly reached its place of destination when it was unfortunately shipwrecked near Sandy Hook. The passengers, however, were all saved and reached the shore. Among them was a young Dutchman and his bride, to whom he was married just before leaving Holland.

The Indians of this part of the country had been hostile and the passengers fled as soon as possible to Manhattan Island. The young Dutchman, however, was too sick to be moved, and remained at the Hook with his wife, who refused to leave him. As the other passengers left, they promised to send aid as soon as possible, but before help could reach them a band of savages came upon the man and his wife, killed him, mangled the woman brutally, and left her for dead. She revived sufficiently, however, to make her way to a hollow tree where she remained for several days, subsisting upon the fungi she found there. The Indians left a fire burning which she kept alive for warmth. A few days after, two Indians, one a young and the other an old man found her, and after a warm discussion whether she should be killed, one of them threw her across his shoulder, carried her to his wigwam, near Middletown, nursed her, dressed her wounds, and she finally recovered. She remained some time with her captor, until the Dutch learning that there was a white woman with the Indians, sent after her. The old Indian gave her freedom and the right to go with her white friends to New Amsterdam. Here she soon made the acquaintance of Richard Stout whom she married and became the ancestress of the numerous family of Stouts found in New Jersey. After her marriage to Stout, she visited the place of her captivity and finally made a settlement in Middletown with her husband and some of his friends. The old Indian who saved her life used frequently to visit her. One day one of his visits, he warned her, in confidence, that the savages intended to murder the settlers. He had provided a canoe hidden at a place on the shore, into which she gathered her children and with them rowed away to New Amsterdam. She had told her husband, but he

refused to believe her and remained. After his wife left, he, becoming alarmed, assembled his neighbors and gave them the information his wife had imparted to him. Arrangements were made to repel the attack, if one should be made. At midnight, the dreaded war whoop was heard, but during a parley between their assailants and the settlers, the Indians were told that the whites were armed and prepared for the assault and would fight them to the death if they persisted. Peace was declared and a treaty made which was never violated. This must have been before the Monmouth patent, which was made in 1665. That patent was made to Richard Stout, James Grover and John Bound and their associates The name of Richard Stout, one of the grantees, was the same as that of the husband of the young Dutch woman who was rescued by the old Indian. Whether he was the same or not, cannot be certainly ascertained, but, in all probability, he was. If he were, it is fair to presume that some, if not all, of these grantees were already settled in Middletown.

In 1661 some residents of Gravesend, on Long Island, had attempted to land on the shore of New Jersey, near Middletown, and settle there, but were warned off by the Dutch.

By the Monmouth patents, its patentees were vested with the right of legislation, so far as Nicholls, acting as governer under the Duke of York, could grant it. He made this provision by that patent: "I do further grant unto the aforesaid Patentees, their heirs, successors and assigns, that they shall have liberty to elect by the vote of the major part of the Inhabitants, five or seven other persons of the ablest and discreetest of the said Inhabitants or a greater number of them (if the Patentees, their heirs, successors or assigns shall see cause) to join with them, and they together, or the major part of them shall have full power and authority to make such peculiar prudential laws and constitutions amongst the Inhabitants for the orderly governing of them as to them shall seem meet." In pursuance of this authority, a legislative body called a General Assembly, composed of the patentees and delegates elected from three towns, Middletown, Shrewsbury and Portland Poynt, was held at Shrewsbury on the 14th of December, 1667. It certainly exercised legislative functions, passing laws for the government of the three towns, and appointing officers, prescribing their duties. It met again in the month of June succeeding and then gave full scope to its law making powers. This was a purely local body and its jurisdiction, as to extent of country, was exceedingly limited. It was however, the

first body of men claiming any legislative powers which met in New Jersey. It differed from that body which met at Elizabeth Town in May, 1668, in this, that the latter claimed universal jurisdiction for all legislative purposes, over the whole State.

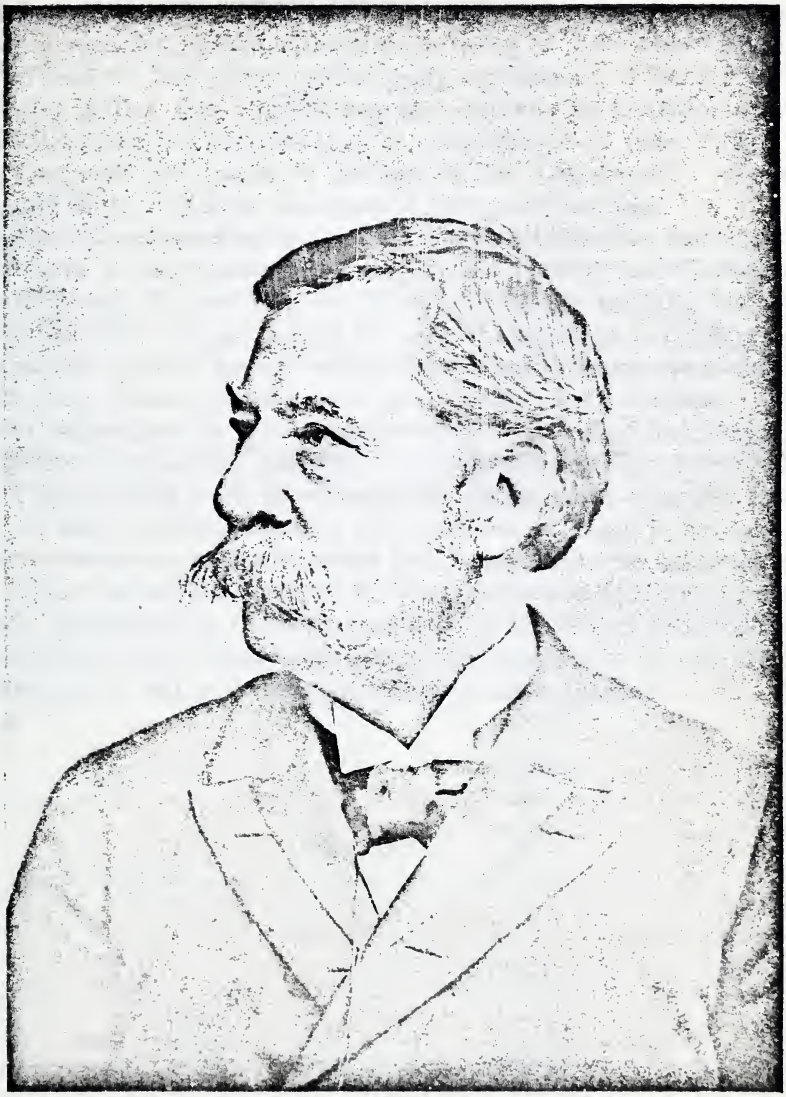
Richard Richardson was elected secretary of the local legislature which met at Shrewsbury and was authorized to record acts, orders and deeds and hence might be considered the first county clerk of Monmouth, if that municipal organization had then been in existence. It had, however, no distinctive organization other than such as was derived from the Monmouth Patent, but was sometimes called a county before it was legislated into existence as such.

The Deputies from Middletown to the Legislature which met at Elizabeth Town, in May, 1668, were James Grover and John Bound. This name, Bound, appears in different forms in the records of the time; in the Patent it is Bown; again it is called Bound and in other places, Brown. Little dependence can be put upon the orthography of the time. The family, to-day, descended from this John Bound, is one of the most respectable in the State and is known as Bowne.

Portland Poynt, as it is sometimes written, in the oldest records, was settled by Richard Hartshorne, a Quaker or Friend, who came there in 1666. The name of Portland Poynt is still used to designate the locality where he settled, but it never rose to the dignity of a town. Until within a few years, the property originally owned by Hartshorne was still in the possession of his descendants. There is a statement, not well authenticated and which research has failed to corroborate, that there was a settlement within the bounds of Middletown long prior to the time when Hartshorne first came there.

Shrewsbury lies south of Middletown, within the bounds of the Monmouth tract. It was probably settled in 1664 by immigrants from Connecticut, but this is not certain. Red Bank and Keyport are situate within the original bounds of Shrewsbury. It had no district representatives in the Legislature which met at Elizabeth Town, May, 1668, but was represented by those from Middletown.

In October, 1668, a few days before the adjourned session of the first Legislature which met at Elizabeth Town was held, the inhabitants of Middletown assembled in town meeting and declared "for the satisfaction of the Governor and Councils" that James Grover and John Bown who had appeared as Deputies in the "*Counties*" behalf were not legally chosen according to the summons. They complained that



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the Governor's proclamation, calling the Legislature together, was not published until the 24th of May, the day before the meeting of the Legislature and that, as the inhabitants or many of them were settled twenty miles apart, they could not be legally summoned. They further claimed that only a few citizens met and elected the Deputies who attended at Elizabeth Town and that, in consequence of these irregularities, they were not bound by the acts of the Legislature. James Grover, one of the Deputies, was clerk at this town meeting.

To this adjourned meeting of the Legislature Middletown sent Jonathan Holmes, called Hulmns in the legislative records, and Edward Tart, as Deputies; Shrewsbury sent Thomas Winterton and John Hans. But these four men refused to take the oath of allegiance and fidelity, or to subscribe to them, except with provisos, and refusing also to submit to the laws already passed, or the government, were dismissed, in the quaint language of the time; in other words, were refused admission as members of the General Assembly and the two townships of Middletown and Shrewsbury were unrepresented. This, then, was the beginning of the real legislation in the province of New Jersey and these were the elements of which that first Legislature was composed.

New Jersey was always foremost in every movement for liberty and the sturdy independence, the resistance to what the citizen believed to be injustice thus early manifested, afterwards culminated in the War of the Revolution and in the Independence of the colonies.

CHAPTER VI.

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Importance of First Legislature; Characteristics of Deputies; Names and Sketches of the Governor's Council: Nicholas Verlet, Daniel Pierce, Robert Bond, Samuel Edsall. Robert Vauquellin and William Pardon; Sketch of James Bollen, Secretary of Council; Laws Passed by the First Legislature; Number and Character of; Thirteen Crimes Punishable with Death; Discontent of Colonists; Governor Carteret Becomes Unpopular; His Characteristics; Character of the Thirty Immigrants who came with Carteret; Carteret Claimed the Right to Make them "Freemen;" Grievance of Middletown and Shrewsbury; The Inhabitants of the Two Towns Attack the Legality of the Election of Deputies; Second Session of the Legislature; Names of Deputies; Continued in Session Four Days; Message from Deputies to Governor and Council; Answer to the Message; Quarrel between Governor and Colonists about Quit Rent; Discussion of Propriety of Objections to Payment; Newark's Action; Carteret's Behavior and Action; Colonists Elect a Legislature, which Appoints James Carteret Governor; Philip Carteret goes to England; Settlements on East Bank of Delaware; Peter Jegon and Fabrus Outout, Delegates from "Delaware River;" Legislature did not Convene for Seven Years; Members of Legislature in 1675; Philip Carteret goes to England; Legislature of 1675 Passed Thirty-seven Acts; Thirty-seventh Act; Places of Meeting from 1675 to 1681; Oaths of "Fedility" and Allegiance; First Thanksgiving Day; Re-enacting Laws Passed; West New Jersey Proprietors Offer Terms to Immigrants; Concessions and Agreements; Quakers in New Jersey; Governmental Authority to Proprietors of West Jersey; Commissioners and their Powers; No Oath Required from Officers or Witnesses; Indians Protected; Mixed Juries; Election of Legislators; Penalty for Bribery; Liberty of Speech; Power of Legislature; Equal Taxation; Religious Tolerance; First Legislature of West Jersey; Edward Billinge; Fundamentals; Thomas Ollive; No Punishment for Capital Offences; No Specific Penalties for Certain Offences; Only one Specific Penalty; No Courts Created; Trial by Jury of Twelve Men; Commissioners to Sit with Jury; In Criminal Cases, Person Injured could Remit Punishment; Crimes Committed during former Government Remitted; Additions to Statutes; Land made Liable for Debts; Attachments; Security Required before Arrest in Civil Cases; Conveyances of Estates of Married Women; Quotations from Statutes in Both Provinces; Record of Deeds and Other Documents; Comparison of Laws of Both Provinces; Act for "Establishing" Schoolmasters in East Jersey.

The first State Legislature of New Jersey was an important body in more senses than one. It took the initiative in all legislation in the province; the deputies who composed the popular branch represented

the sentiments of the first settlers and responded to their demands. Those deputies came direct from the people. They were plain, honest men who thought and acted independently, but conscientiously; who regarded integrity, the fear of God and hatred of sin as cardinal virtues without which no man was sure of Heaven. They probably lacked culture and education as those acquirements are now estimated and were not fitted to shine at earthly courts or adorn kings' palaces, but, if they lacked the graces of fashionable life, they had none of its vices and were equipped with an intensity of purpose, with virtuous desires and with a stubborn intention to do exactly what was right according to the strictest rules of the purest morality. They had suffered much and endured hardships to secure freedom, and they knew its worth; they appreciated its cost to them and its value to others and they were determined, having once secured it, never to relinquish it. There seemed to be, and there really was, in that beginning of the history of the commonwealth, little to be done, but, in dead earnest, they set about the accomplishment of their whole duty to themselves and their constituents. Unconsciously those few men who met at Elizabeth Town, in that month of May, in the year of grace, 1668, were preparing the way for the descendants of the few inhabitants of that sparsely settled province for the creation of the grandest empire the world ever knew. They were wise in their day and generation, but they builded better than they imagined; in their wildest flight of fancy they never could have dreamed of the real future they were moulding and shaping in that little assembly of determined men. It is to be regretted that there was no historian with graphic pen to record the proceedings of those eventful four days; to give the personnel of the members; to report their speeches, and, having sat by their sides, to tell how they looked, how they acted and talked. It would be instructive thus to learn their various modes of thought, to hear their utterances, to study their opinions and to consider their methods of argument. Doubtless, they were stern logicians, not given to metaphysical subtlety, nor to fine spun, hair-drawn niceties of argument, but, when they spoke, it was to the point.

There was no historian of those times, and the only means of informing ourselves at this day, about these law makers, is to examine the laws they enacted and learn from them, if possible, what manner of men they were. They were just four days in session and during that time they passed four different, distinct, independent acts.

These are the names of the Governor's Council: Captain Nicholas Verlet, Daniel Pierce, Robert Bond, Samuel Edsall, Robert Vauquellin and William Pardon.

Nicholas Verlet, at one time, was prominent in the province of the New Netherlands, having received from Stuyvesant a grant for Hoboken, or as it was then called Hobuc. He seems to have been a man of substance and to have made considerable improvement at Hoboken, where he had settled several years prior to the time when he received this grant from the Dutch Governor. How he came to be living in New Jersey, or what induced Governor Carteret to appoint him one of his Council cannot be ascertained.

Daniel Pierce was the founder of Woodbridge. He had received a deed for that locality and had associated several others with himself, as already mentioned. He attended the first meeting of the Legislature as member of the Council, but does not again appear. He seems to have been the leader of emigrants from Newburyport, Massachusetts.

Samuel Edsall, Robert Bond and William Pardon were among the settlers of Elizabeth Town, associates of the four men from Jamaica. Samuel Edsall was one of the witnesses to the payment of the consideration of the Indian deed. He had settled a tract of land at Bergen Point, of twelve or fifteen hundred acres and of considerable value—six or seven hundred pounds.

Robert Bond was prominent in the early history of Elizabeth Town as a magistrate as well as a member of the Governor's Council. He was a "third lot right" man in the division of the land and signed the oath of allegiance.

William Pardon was a "second lot right" man; his name does not appear among those who took the oath of allegiance. He was a favorite of the Governor, and, at one time, when some land in the colony had been forfeited by a settler, Carteret granted the property to him. He was an ardent and rather unscrupulous friend of the Governor in his quarrels with the people and was openly charged with the destruction of the minutes of some sessions of the Legislature. Carteret appointed him a member of the court to try several citizens who were charged with riot.

Robert Vauquellin, who was also called Sieur de Prairie, and whose two names are found in various records spelled in twenty-two different ways, was a native of Caen, in France, and was said to be of noble descent. He was not naturalized until 1669–70, but took the oath of

allegiance in 1665. He was admitted as one of the eighty associates, but had little in common with the Puritans who composed the great majority of the first settlers of Elizabeth Town. In 1678, becoming dissatisfied with the puritanic sentiments of his neighbors, he removed to Woodbridge, where he became the owner of several hundred acres. In 1681 he was succeeded by John Reid in his office of Surveyor General. After 1686, he is not again heard of, but disappears entirely from the records of the colony.

James Bollen, of all those who surrounded the Governor, was the most obsequious in his devotion to him. He never failed in doing his master's will, always supporting him in every measure, whether right or wrong. He did not come from England with Governor Carteret, but seems to have joined him at New York, where he had occupied some positions of honor denoting that he was a prominent man there. His entire devotion to the Governor during the troubles with the settlers made him obnoxious to the town's people and he exchanged property with an owner of land at Woodbridge and ceased to reside at Elizabeth Town. He was made a Justice of the Peace by Governor Carteret, besides being Secretary of the Council.

The primal care of the Legislature was the establishment and upholding of the lawful authority of the government; so, the very first act passed provided that if any one should resist the authority established by the Lords Proprietors, Justices, or any other inferior officers, "*either in words or actions*," should be liable to such fine or corporal punishment as "*the Court shall judge upon due examination thereof.*" This law was very comprehensive and was expressed in the simplest terms possible; but it imposed a great responsibility upon courts, which had not yet been established; for, at the time, there was not a single court instituted by legislative authority in the whole province.

The next act passed was a very peculiar one and deserves some attention. It provided that every male from sixteen years and upwards "*should be furnished at their own cost and charge with good and sufficient arms and constantly maintain the same, viz.: a good serviceable gun, one pound of good powder, four pounds of pistol bullets or twenty-four pistol bullets suited to the gun; a pair of Bandaleers; or a good horn and a sword and belt.*" If any person or persons should wilfully neglect and not provide himself according to the act within one month after publication thereof, he should pay one shilling for the first week's neglect and for every week thereafter the sum of two shillings, by way

of fine, to be levied upon his or their goods or chattels. This was partly for the citizen's personal protection, but mainly for the defence of the whole community. There was a necessity at that time that all the settlers should take measures not only for the protection of themselves and of their families, but, also, for that of their neighbors. It was needful too that they should be ready, at any time, fully armed and equipped, to repel attack, to drive off an enemy and render efficient and intelligent aid in any emergency. The act told the story of the need for its enactment; there were wary and unscrupulous foes menacing the life of the young colony, foes who might attack at any time; the men of the province must be ready at a moment's warning to fight for life, for home, for family and for the community. The act implied that all men from sixteen upwards, who were thus obliged to provide arms, weapons for protection and offence, must know how to use them. A gun would be of little use in the hands of an ignorant man who could neither load nor fire it.

The next act related to crimes; provided protection to the community from the consequences of the commission of sins affecting the personal safety, the purity and morality of its members. Arson, murder, perjury, crimes against chastity, kidnapping, burglary, theft, witchcraft, seizing a town or fort, striking or cursing father or mother, night walking, drunkenness in any public place, at unreasonable hours,—after nine o'clock at night;—were the crimes for which punishment was provided by these stern moralists. The nature and character of the penalties imposed reveal the sources from whence they drew their inspiration. They were all based upon the Mosaic code; many of them were taken bodily from that stern system. A thief of goods, cattle or beasts, must make treble restitution for the first, second or third offence, with such increase of punishment as the court might see fit to impose; but, if the thief were incorrigible, then death followed. If the criminal could not make restitution for first, second or third offences, then he should be sold, that satisfaction might be made. The court could also impose such corporal punishment as it deemed proper.

If a child above sixteen and of sufficient understanding either struck or cursed father or mother, death was the penalty; but the awful punishment was tempered with mercy to the insulted parent, for the offending child could only be punished on the complaint or proof of the parent, "*and not otherwise.*" Sodomy with beast was punished by the death of the offender and the animal was slain and burnt.

Thirteen different offences, according to this code, were punishable with death. The mode in which this penalty was to be inflicted was not prescribed, but undoubtedly it was understood to be that used in the mother country. The thirteen offences for the commission of which the penalty of death was imposed were murder; arson, at the discretion of the Court, however; sodomy with beast; the like offence with man; kidnapping; perjury; incorrigible burglary; invading or seizing a town or a fort; highway robbery; incorrigible thieving; witchcraft; striking or cursing a parent and rape.

It can hardly be imagined that at this early period in the history of the colony and with inhabitants of such character and religious sentiments, it was necessary to pass such laws for the repression of these abominable crimes. They could not have existed among such a people. The Legislature was providing for the future. Such statutes were found to be necessary for the society which existed in the mother country and were recorded on its statute books, and so, these wise builders incorporated them into their body of laws, not for present repression, but to protect the future and to prevent their occurrence.

Having thus provided for the purity and morality of their constituents, the Legislature turned its attention to the government of the province. This subject had received no prior legislative action; nothing could possibly have been done in that direction. It was therefore provided that the General Assembly should meet thereafter annually, on the first Tuesday in November; that the Deputies should be elected in the various towns, yearly, on the first Tuesday in January. To insure the attendance of the members when elected, a fine of forty shillings, quite a large sum in those days, was imposed for willful absence, unless a sufficient excuse could be shown.

The expense of the government, amounting to the modest sum of thirty pounds, was assessed upon the five towns proportionately, according to their respective abilities to pay. The amount so assessed might be paid in produce, the price of which was fixed by statute, then enacted.

The subject of marriage was discussed and arranged. No one could marry without the consent of parents, masters, or overseers, and then only after the publication of banns at some public meeting or kirk, in the place where the parties lived, or at some particular house, fourteen days before the marriage. In this part of the act, regulating marriage, no reference was made to the age of the parties. None but approved Min-

isters or Justices of the Peace could perform the ceremony and then, only in some public place. The Governor might grant a license to such as were "at their own disposing," or to any other, "under the tuition of their parents, masters, overseers, who were present and consenting thereto." That "beastly vice, drunkenness" did not escape the notice of the Legislature. One shilling fine was imposed for the first time any person was found drunk; two shillings for the second and third time, and for every time thereafter two shillings and six pence. If the drunkard had nothing wherewith to pay his fine, then he should suffer corporal punishment. All unruly persons and disturbers of the peace were to be put into the stocks, until they became sober or during the pleasure of the officer in chief, in the place where the offender was found drunk. Profane swearing was punished by a fine of one shilling, one-half of which was to be paid to the informer and the other half to the country. The very last business done by this first Legislature was to provide this: "*Concerning taking away of a man's life; it is enacted by this present General Assembly, that no man's life shall be taken away, under any Pretense but by virtue of some Law established in this Province, that it be proved by the mouth of two or three witnesses.*" Then the Deputies sent a message to the Governor and his Council that they deemed it important that certain laws which had been sent to them for their concurrence should be passed, "but by reason of the Week so near spent, and the Resolution of some of our Company to depart and the meeting to surcease for the present, and therefore we shall be necessitated to refer the full consideration of them" (the laws sent to them by the Council) "for the present, until the next Sessions of this Assembly, which is to be the first Tuesday in November next." This message was assented to by the Governor and his Council and so the Legislature was adjourned until the third of November, 1668.

Between that adjournment and the day of the next meeting some events transpired which created trouble in the colony and had an important influence on the Legislature and the province. There had been some mutterings of discontent among the citizens, jealous of their rights and quick to resent any inteference with their privileges, which finally culminated in disorder and almost open rebellion.

At first, Governor Carteret made himself quite popular among the colonists. His entrance into the settlement as he landed from his ship, was made in a manner calculated to win the confidence and secure the good will of the settlers. But it was not long before he made himself

obnoxious to the people not only of Elizabeth Town, but also, of the adjoining settlements. There were many causes of discontent, any one of which would, of itself, have been sufficient to create a breach between the Governor and his people.

He was quite a young man when he came to New Jersey and had had very little, if any, experience in the art of governing. He came from the court of Charles II, who, like all the Stuarts, had the most exaggerated notions of the divine right of kings and rulers to govern, and of the unqualified obedience to be required of the ruled. Very little notice is given him by the historians of his time and we are driven to judge of him by his acts. He died in 1682, still quite young. He had married a widow lady from Smith Town, Long Island, who survived him, but he seems to have left no children. In his will, the record of which is still preserved, he made no mention of any heir and disposed of his estate in such a manner as fairly to intimate that he had none.

It is almost impossible to form an estimate of his character as a private citizen, and very little means are afforded by which we can judge of him as Governor. This much, however, is known and cannot be denied; he was arbitrary and dictatorial in much of his public conduct; he estranged the citizens whom he might have conciliated and imposed burdens in a manner which was not at all calculated to win their affections, or to secure their confidence. He seems, however, to have had the power, often possessed, it is too true, by the vicious, of securing and retaining an unselfish devotion from a few immediately surrounding him. There were those in his province who never swerved from their allegiance to him and who served him with unfaltering trust through all his controversies with the people.

He was called upon to rule his province at a most critical time in the history of the young colony; it was in its formative period, when there was no settled law, no binding force of established legislation and when the minds of the colonists were in a ferment. Those who were subject to his rule were not the most pliant and, perhaps, not the most amenable to good government as it might have been exercised by the young Governor, or to the principles of obedience due from the ruled to the ruler; the colonists were jealous of their rights and watched with suspicion any encroachment upon their privileges, especially from a ruler so intimately connected with a representative of the hated Stuart family. To those stern, bigoted Puritans no good could come from any descendant of the beheaded Charles, and they feared and suspected any

relative of Sir George Carteret the gay courtier, who stood so near the wicked and debauched king of England. That Philip Carteret was chargeable with infractions of the "Grants and Concessions," the Magna Charta of the colony, is indisputable; that the colonists had good grounds of complaint against him, cannot be denied. But it is probable that if Carteret had been more conciliatory, less arbitrary, he might have gained and retained the esteem and confidence of the immigrants. If the people had been disposed to be less suspicious of the Governor, it is equally probable that while they might have chafed and become restive, he would have relaxed his arbitrary conduct and been more in unison with those whom he attempted to rule. As is generally the case, there were faults on both sides; the people were too easily provoked; too jealous of any real, or even fancied invasion of their rights; too prone to seek occasion to criticise their Governor; he too ready to seize any opportunity of wreaking his wrath on his rebellious and contumacious subjects; too tenacious of his prerogative as the representative of the Lords Proprietors and of the royal authority, and so the breach widened and the chasm between the two opponents could neither be crossed nor filled.

Carteret claimed that as Governor he was entitled to preside either personally, or by proxy, at the town meetings of the citizens. He also arrogated to himself the right to remove the military officers elected by the people and put others of his own appointment in their place.

He had brought thirty persons with him from Europe, most of whom he himself called "menial servants." They were in no respect congenial to the inhabitants; they were alien to them in race, manners, customs and religion; there was no point of similarity between them. Carteret claimed the right to introduce such of them as he chose into the body of the colonists on an equality with the other citizens; to invest them with a title in fee to home lots apportioned only to associates, in the original allotment of the land and thus make them "*Freemen.*" This seemed and was, really, in itself a very small cause of grievance; —simply to sell and convey a few acres of land to a worthy man who had a family to support and had proved himself capable of becoming a good citizen and bearing his share of the burdens of the colony. Why should any one object? But objections and very strong ones were made to the measure. It was an invasion of the rights of the associates; it was a tyrannical, oppresive infringement of the privileges guarantied to them by the "*Grants and Concessions,*" the fundamental organic law of

the province, the Magna Charta of the people. By those "Grants and Concessions" it was expressly provided that no one should be introduced into any one of the settlements in New Jersey, as a planter, without the consent of the whole community.

These were grounds of serious complaint, which the citizens in this early period in the history of the colony could not and did not overlook. But they were to be followed by grievances of a much graver character and which finally led to an outbreak threatening a disruption of all relations between Governor and people. For the present, however, there was comparative quiet; there were mutterings and discontent plainly expressed, but no actual explosion; the storm had not yet gathered its forces, although ominous clouds were hanging in the horizon; the settlements were too far from each other, the country too sparsely settled for complete organization, but the people were almost unanimous in their opposition to the Governor and were impatiently awaiting the outcome of events; they were determined to brook no further oppression.

The inhabitants of Middletown and Shrewsbury had a grievance peculiarly their own and between the first and second sessions of the Legislature they manifested their uneasiness in a very decided manner as already mentioned. The authorities had refused to publish the acts which had been passed, to recognize their binding force, to permit them to be enforced within the limits of their municipalities, or to pay any money towards the expenses of the government. Their representatives were present at the meeting of the Legislature, it is true, but it was claimed that they were illegally elected and that their acts could not bind their constituents. It was thus early that the battle cry of the Revolution, "No taxation without representation," afterwards so potent, was raised.

The second session of the first Legislature also met at Elizabeth Town, pursuant to adjournment, on the third day of November, 1668. The Governor and five members of his Council, the same who appeared at the first session, except Daniel Pierce, were present, with James Bollen as Secretary. The same deputies came from Bergen; John Brackett was superseded by Jacob Mollins, from Elizabeth Town; Jasper Crane came from Newark, in the place of Samuel Swaine; Samuel Moore appeared from Woodbridge instead of John Bishop and two new delegates, Peter Jegon and Fabrus (Fabrius?) Outout came from "Delaware River"; four Burgesses appeared from Middletown and

Shrewsbury, but the discontent of the people manifested itself through these men They were Jonathan Hulmns (Holmes?), Edward Tart, Thomas Winterton and John Hans, who all refused to take or subscribe to the oath of allegiance and fidelity unless they could interject certain provisos, which the Legislature would not allow, and not "submitting to the laws and government were dismissed."

The second session of the Legislature continued only four days and adjourned on the 7th day of November. The uneasiness and discontent of the people were carried into the legislative chamber, where very little of importance was accomplished; the law makers seem however, to have been busy, as thirteen acts were passed. The importance of educating the militia in military evolutions was recognized; all males from sixteen to sixty were required to meet on training days in each year, ten days apart, at least, "in order to the better providing for the peace and safety of the inhabitants of the province and the more ready accustoming of our soldiers to an expert handling of their arms." Horses and cattle were to be branded with a distinctive mark for each town; every town was obliged to provide an ordinary for the relief and entertainment of strangers. Mr. Ogden, a deputy from Elizabeth Town, was authorized "to take cognizance of the Country's charges and rates and to order the disposal of the same." Purchases from the Indians of cattle or horses, dead or alive, or their skins, were forbidden.

One of the acts passed at this session has reference to the rebellious attitude of the people of Middletown and Shrewsbury. Luke Watson, not a delegate, and Samuel Moore, Burgess from Woodbridge, were directed to go to the recalcitrant towns and demand the money which was assessed upon them at the first sitting as their share of the expenses of the government, together with the further sum of forty shillings, charged against them by the second session, as their proportion of the sum of twelve pounds for defraying public charges. If they refused to pay, then a distraint was authorized, not only for the amounts claimed as due from them, but for the charges and expenses attending the distress. A law was also passed at this adjourned session, which, if the defiant state of the people be considered, is very significant of the sense of propriety and of right entertained by the citizens. "All fines but what by law are disposed of, shall be for the Publick in all respective Towns in this Provence, after the Publication hereof. *Always Provided* that the Lords Proprietors Rights are not hereby infringed upon."

The discontent assumed unexpected form just at the close of this session of the Legislature, on the 6th of November, when the deputies sent a message to the Governor and his council which was very significant. The message and answer are so expressive of the views of both bodies and so quaint that they are copied. This is the message: "Honored Gentlemen, We finding so many and great Inconveniences by our not setting together, and your apprehension so different to ours, and your Expectations that Things must go according to your opinions, though we see no Reason for, much less warrant from the Concessions wherefore we think it vain to spend much Time of returning answers by writings that are so exceeding dilatory, if not fruitless and endless, and we think our way rather to break up our meeting, seeing the Order of the Concessions cannot be attended unto."

It is fairly deducible from the Grants and Concessions that the deputies were correct in their views thus expressed, and that it was the duty of the Governor and his council to sit and act together with the deputies. A careful reading of the clauses of the Concessions must impel a disinterested reader to that conclusion; the deputies were to join with the Governor and Council in making the laws; the representatives with the Governor and Council were to form the General Assembly; the Governor or his deputy, being present, was to preside; if they refuse to be present, then the Assembly "may appoint themselves a President during the absence of the Governor or his Deputy." The power granted to the General Assembly was for their joint action; there is nowhere in the Grants the slightest hint that the Assembly could meet in separate bodies or act separately. The practice which obtained at the very outset, of using separate rooms for meeting and of acting apart was, doubtless, gained from the two houses of Parliament, in England.

This was the answer: "In answer to your last Proposition we desire you to appoint two of your Deputies to consider with us in what Point we Act contrary to the Concessions, it being too late to Night to entertain so long a debate, we will be ready To-morrow Morning to give them a hearing, and if reason will satisfy you, we shall be very well pleased that you proceed according to the Lords Proprietors Concessions and the Trust imposed upon you, if not you may do what you Please, only we advise you to consider well of your Resolutions before you break up." The curt and ungracious reply does not seem to have conciliated the angry deputies.

This correspondence passed between the two bodies on the 6th of November; on the next day the Assembly broke up and no Legislature convened again until the 5th of November, 1675, seven years, almost to a day, after the adjournment in 1668.

But in the meantime the quarrel between the Governor and the people had reached its height and had culminated in outbreaks and absolute riots. In 1670, on the 25th of March, the beginning of the year, according to the computation of time at that period, the quit rents claimed by the Lords Proprietors fell due, by the terms of the grants made to the colonists. Attempts were made to collect this quit rent, which were resisted. The amount was not large—only a half penny an acre—but its demand was all that was necessary to arouse the slumbering elements of opposition and this action of the authorities fanned the smouldering fire into flames. The resistance to the payment of the quit rent was not entirely unanimous, but nearly so, and on the part of some, it was determined and immediate.

Some of those, however, who objected to the demands of the Lords Proprietors could not have been honest in their opposition. They had taken the oath of allegiance to the king, of fidelity to the Proprietors, and had received confirmation from them of their title to land derived from the aborigines or from Governor Nicholls. Such persons had no excuse for their refusal to pay.

But there were others who had never directly acknowledged the sovereignty of the Proprietors; had never sworn fidelity to them; had never received confirmation of their titles; in fact, had purposely avoided asking or taking any such confirmation and had always insisted that their Indian deeds, or their grants from Nicholls, had invested them with a complete title. They claimed that they had paid full consideration to the Sachems for the lands purchased of them and that the Lords Proprietors could have no title paramount to that of the Aborigines. For such there may have been some excuse for disobedience of the constituted authorities; but there was really no justification for any resident in the colony, in their refusal to pay. Neither their deeds from the Indian Sachems, nor the grants from Governor Nicholls, gave them any substantial titles to the lands. They were living under the government of the Lords Proprietors, who offered them protection as citizens and they had availed themselves of that protection and enjoyed the privileges of citizenship. For the other rebels there was not the slightest excuse; they suffered self interest to obscure their vision

and became insensible to the demand of ordinary justice, in their desire to escape the payment of honest dues.

This question of quit rent affected all the land holders in the colony. The people of Newark met the demand in rather a peculiar manner. A town meeting was called on February 3, 1669–70. The regular annual meeting had been held only a few days before, on January 26, 1669–70. This fact and other circumstances show conclusively that that meeting held February 3rd, must have been specially called to consider and answer the demand for the payment of the quit rent. The very first question discussed was the action of the Lords Proprietors relative to the rent. The record of the meeting begins very abruptly and thus continues: "Town Meeting, the 3rd February, 1669, the Governors Writing was read, and After some debate upon it they by their Votes agreed as Follows: After all due Sallutations to be presented by the Constable to Our Worshipfull Governor, we the Inhabitants or freeholders of the Town of New Ark, do by him make Return to the said Governors Writing, as followeth, Viz: That they do Hold and Possess their Lands and Rights in the said Town, Both by Civil and Divine Right, as by their Legall purchase and Articles doth and May Shew. And as for the payment of the Half Penny per Acre for all our Allotted Lands According to our Articles and Interpretations of them, You assuring them to us, We are ready when the Time Comes, to perform our Duty to the Lords or their Assigns."

This was at the very outset of the controversy relative to the quit rent, which, by the terms of the grant from the Lords Proprietors was not payable until the 25th day of March, 1670. That time was fast approaching and the Governor, acting for his principals had given notice that its payment would be demanded according to the terms of the grants. On the 20th of March, 1670, which would have been 1671, according to the modern method of computing time, the town meeting again took action on the subject and it was then agreed that Henry Lyon and Thomas Johnson should tender the Governor payment, "*in good wheat*," of the half penny per acre, "in like Manner as they did the Last Year at the day appointed." In case the Governor accepted the offer, then the Inhabitants were directed to bring their proportion of the "corn" to the Constable's house on the day appointed by seven or eight o'clock in the morning, so that it might be sent to the Governor "and take a discharge of him for the same; and they are at Least to Bring as Much as they did the Last Year, and More if they see a Cause."

The action of the Town in "the last year," 1669, was determined at the Town Meeting held March 24, 1669, when it was "by their Joint Vote agreed, that Henry Lyon and Ths. Johnson should Take and receive every Mans Just Share and Proportion of Wheat for his Land; the Summer wheat at 4s. pr. Bus'l and Winter Wheat at 5s. according to the order and Time perfixed to them to Bring it to Johnson's House Before the day be over, or else if they fail they are to Double the quantity; which Corn the said Lyon & Johnson is to Morrow to Carry to Elizabeth Town and Make a Tender Thereof to the Gouvernor upon the account of the Lords Proprietors rent for the Land we make use of, according to Articles 25th March 1670."

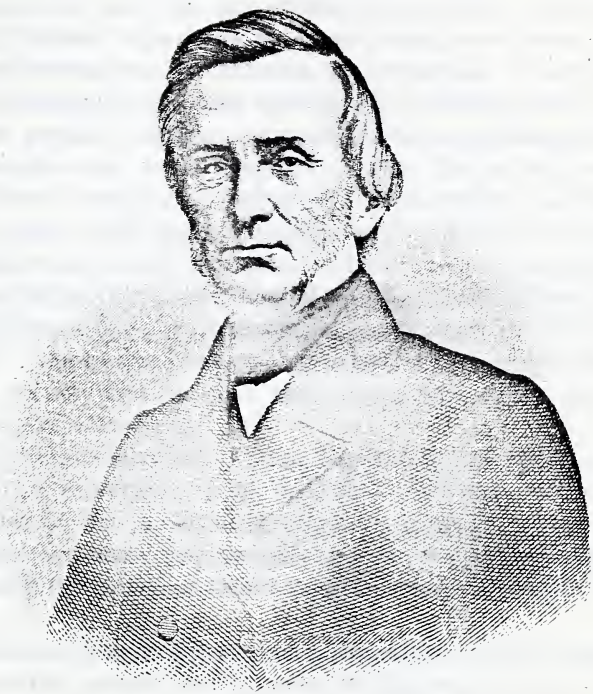
Henry Lyon was the Treasurer and Thomas Johnson the Constable elected the previous year, and the date, March 25, 1670, undoubtedly referred to the time set in the grants for the payment of the quit rents.

There was other action afterwards taken by the people of Newark, continuing over a period of several years, until, at last, the ferment caused by the persistent demand of the Lords Proprietors for the payment of the rent culminated in an actual riot and rebellion.

Governor Carteret was true to his duty to his principals and manfully strove to stem the torrent. It was, however, in vain that he endeavored to enforce the demands of the government and the payment of the rent. For two years disorder and misrule held sway in the province, the authority of the Lords Proprietors was openly set at defiance and payment of the quit rent utterly refused.

At last, the climax was reached; the disaffection spread and the dissatisfied people determined to establish a separate government of their own. Delegates to what was called a Legislature, were elected in the different towns. This Legislature met at Elizabeth Town, on the 14th of May, 1672; it made bold assertions and claimed to be the regularly constituted law making power in New Jersey, created by the action of the people, who were the fountain of all sovereignty and who alone had the authority to create governments. But it must have a head; there must be some officer to assume the place of Governor. Of course, Philip Carteret could not acknowledge the factious movement of his rebellious subjects, besides he was inimical to those who were thus conspiring against the legally constituted authorities and, by this time, had made himself most unpopular to all classes.

There was then residing in the colony a weak and dissolute man called Captain James Carteret, by some said to be an illegitimate son



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Alfred Tennyson

of Sir George Carteret, who was selected by the rebels as their figure head. He was elected Governor and instantly accepted the appointment and assumed the duties of the position. But he thought it necessary to claim some authority outside of the will of the people, giving him a right to the office, and he pretended that he had a warrant from his father, Sir George Carteret, appointing him to the place. It was never produced, however, and it is safe to say it never had any actual existence. Philip Carteret behaved with great courage and some wisdom; he issued proclamations, he warned, he entreated, he argued, but all in vain; proclamations were scoffed at; warnings were unheeded; entreaties availed nothing; arguments were unanswered or jeered at; the people were in no humor to listen; the province was almost in a state of riot, certainly of rebellion. There were no courts to which the Governor could apply for relief with sufficient authority or competent jurisdiction to meet the case. There was a court at Newark, established by the settlers there, but, of course, it was subservient to the disaffected citizens and the government could hope for little, aid from that tribunal. There were one or two other courts of the same character as this one at Newark, but their authority could not be stretched so far as to meet the case.

Some illegal acts were committed by the legislature constituted by the opponents of the Governor; much injustice was done under its authority; legal officers, for performing legal acts, clearly within the scope of their authority, were imprisoned and their property confiscated; it seemed as if the province would be given over to misrule and chaos.

The Governor's Council, at this juncture of the affairs of the colony, advised him to leave the country and go over to England and give full information to the authorities there and advise with them as to the future course to be pursued. Accordingly, he and James Bollen, the Secretary of the Council, went to England.

For many years there had not been very intimate relations between the inhabitants of the settlements on the east bank of the Delaware River and those of other parts of the province. The authorities of Maryland, at one time, claimed jurisdiction over the country on both sides of the river and there was danger of a conflict of authority between them and the Governor of New York, who disputed the claim of Maryland. The Governor of New Jersey also claimed the same territory and between him and the Governor of New York there was to be

a conflict of jurisdiction. Maryland soon abandoned any pretentions of a right to the land within the bounds of New Jersey. As early as 1639, there were several small settlements controlled by the Swedes. The number of inhabitants in these settlements was small, but in one of the three was to be found one hundred and thirty Swedish families and twelve hundred Europeans, in all, were scattered at different points on the west side of the river. These people do not seem to have sympathized with the rebels.

Perhaps they were too far removed from the scene of actual strife to be influenced by the dissensions between the Lords Proprietors and their representative, the Governor, with the citizens. Perhaps—and this seems more probable—no demand was made upon them for the payment of any quit rent. In fact, it is doubtful whether any demand could have been rightfully made, for such payment. The title to the land in Southern New Jersey was not originally held from the Proprietors. It, or a large portion of it, had been bought from the aborigines before the grant to Berkeley and Carteret, and there does not seem to have been any disposition on the part of the English to disturb individual settlers in the possession of their property. When the government was wrested from the Dutch, by conquest, not a single settler was required to surrender his land; all that was demanded was that they should acknowledge allegiance to the Duke of York.

These settlements sent no deputies to the first session of the first legislature, and there is no proof that proclamation was ever made any where south of Middletown or Shrewsbury, by the Governor, or his agents, for the election of representatives; but, to the second session came these two men, Peter Jegon and Fabrus Outout, from the "Delaware River."

The Swedes and the Dutch, who settled in South Jersey, were at first antagonistic to each other, but they soon amalgamated, and, at one time, joined their forces in opposition to the English. The Swedes, for a time, acknowledged the supremacy of the Dutch and entirely abandoned any government either by Sweden or by themselves. But the English, for many years prior to the close of the seventeenth century, had undisputed control of all the settlements both Swedish and Dutch, in the southern part of the province. There were distinct villages, known by name, along the east bank of the Delaware River. Some of these, however, were mere hamlets and no one of them contained a sufficient number of inhabitants to be entitled to representa-

tion in the Legislature. So, it seems that all these settlements must have combined and sent two representatives who were recorded as having appeared "for Delaware River." The names of these two men are significant; Peter Jegon is undoubtedly Swedish and Fabrus Outout is Dutch; one, of course, represented the Swedish element and the other, the Dutch. Jegon was rather a noted character; he kept a house of entertainment "over Matinicunk Island," in the Delaware River, eight or nine miles below the Falls, and is mentioned in the Legislative and other records of the province by three different names, Jegon, Jegow and Jegou. Neither of these men appears afterwards as deputy, so far as can now be ascertained; nor does there seem to have been any representatives from the settlements on the Delaware in the subsequent meetings of the Legislature held for the whole of New Jersey.

After the second session of the first Legislature it did not again convene until the 5th of November, 1675, a period of seven years, when Philip Carteret appeared as Governor with his six Councilmen, of whom only one was present at the first session and that was the Frenchman, Robert Vauquellin. The new Councilmen were Captain John Berry, Captain William Stanford (this should be Sanford), Captain John Pike, Lawrence Andrison and John Bishop, Sr. James Bollen was the secretary, the same man who acted in that capacity at the first session. New men also appeared as deputies from the towns: Henry Lyon and Benjamin Price, from Elizabeth Town; Hans Dedrick and Elias Michelson from Bergen; Thomas Johnston (this should be Johnson) and Lieutenant John Ward, from Newark; Samuel Denis and Thomas Bloomfield, Jr., for Woodbridge; John Gillman and Hopewell Hull, for New Piscataqua; Captain John Bound and John Throgmorton, for Middletown; William Shatlock and John Stocum, for Shrewsbury. The record states that all of these except William Shatlock subscribed or swore to the oath of allegiance, but that he refused to do either and was dismissed.

This hiatus in the meetings of the Legislature is attributable to several causes. The Governor, Philip Carteret, went to England and was there for some time. James Carteret had assumed the office of Governor, and riot and discontent pervaded the province. Peace was not completely restored in 1675, but better counsels were beginning to prevail and the Legislature was called together. The time appointed for the first meeting of this second Legislature was the 13th of No-

vember, 1675, but on that day it was adjourned until the 29th of the same month. It met, like the first, at Elizabeth Town. It was a busy Legislature and passed thirty-seven different acts. Its first care seems to have been the providing "for the better security of ourselves and families with reference to the Indians." This Legislature continued in session certainly until the 9th of December, on which day it re-enacted the same laws relating to crimes, which had been passed by the first Legislature in 1668.

The last statute, the 37th, is very significant, and, if carefully read by the historian, will give some idea of the state of affairs in the province prior to the year 1675. That act is quoted entire on account of its great significance and of the information it gives:

"*Acts of Oblivion.* XXXVII. WHEREAS divers disorders and disturbances have arisen in this Province by reason of some endeavouring and making an alteration of the Government established by the Lords Proprietors thereof, by which means several damages, costs and charges have accrued to divers the inhabitants of the same, and the Lords Proprietors having by their last orders given liberty to such as have received such damages, costs and charges to recover the same by due course of law, whereby many actions, quarrels and other differences may arise among the inhabitants, in general, for prevention whereof; WHEREFORE BE IT ENACTED, by this General Assembly, that there shall be an utter abolishing of all actions, tending to recover damages, costs and charges, for any action, committed or done against any one within this Province, that hath been a party or any way concerned in the endeavouring and making an alteration in the Government here settled by the Lords, any time from the year 1670, until June, 1673, and likewise of all actions tending to recover price for any goods, or labor imployed during the same time for the defence of the said Province, excepting such accompts as have been settled and allowed by this Assembly. AND BE IT FURTHER ENACTED by the authority aforesaid, that no contract made with any parties, then in rebellion against the government, or any person of that party, to the use and behoof or maintainance of the said difference against this government, or any person belonging to the same, shall be actionable in any court within this Province. And the honoured the Governor and his Council, out of their tender affection to the inhabitants of this Province, is further pleased that it should be enacted, and it is enacted by the authority aforesaid, that all the inhabitants and members of this Province

shall be absolutely and freely pardoned of all the offences whatsoever, capital, or other committed or perpetrated at any time from the aforesaid year, 1670, until the first of June in the year 1673. And for the better preserving of peace and unity, it is also enacted by the aforesaid authority, that all revilling speeches, practices, or intents tending to the disturbance of the amity desired and intended, namely all reviling or upbraiding of others with matters of difference whatsoever, remitted and pardoned by the honoured Governor, or abolished by virtue of this act, be buried in oblivion, not to be urged upon what pretence soever, upon pain of imprisonment during pleasure, fine, banishment, stocking, whiping, any or more of these as upon due examination, all circumstances being first considered, the court of assizes shall judge meet. PROVIDED, that whatsoever hath been recovered by law from any person or persons, or imposed by way of fine or otherwise at any court or courts within this Province to this present sessions, shall stand good and not be discharged or made void by this act."

Sessions of the Legislature for the whole province were held at various times from the year 1675 until some time after the division of the Province into East and West Jersey, which took place in 1676; but there were different places of meeting In October, 1676, it met at Woodbridge; in October, 1677, it began at Woodbridge and ended at Elizabeth Town; in 1678, it met at Elizabeth Town, as it also did the next year; in 1679, part of the session was held at Middletown and part at New Piscataqua; in 1681, it returned to Elizabeth Town and then began the separate sessions for the two Provinces.

By the "Grants and Concessions" it was provided that the laws enacted by the Legislature should be in force for the "space of one year and no more unless contradicted by the Lords Proprietors." So, at the expiration of a year from the time when the first General Assembly adjourned, there was not a single binding law in force in the colony until the meeting of the Legislature, in 1675. Just how the government of the colony was administered in the interim does not appear, but it can well be imagined that those citizens who were disposed to resist the authority of the Lords Proprietors did not object to this strange state of affairs.

In 1675 the following oath of "Fedility" to his Majesty and the Lord Proprietor was prescribed:

"That I will bear true allegience to the King of England his heirs and successors, and I will be faithful to the interest of the Lord Pro-

prietor of this Province, his heirs, executors, or assigns, and endeavour the peace and welfare of the said Province, and that I will truly and faithfully discharge the trust imposed upon me, according to my best skill and judgment, and without corruption favour or affection. So help me God."

In the same year the following "Oath of Allegience" was also prescribed:

"I do truly and sincerely acknowledge, profess, testify and declare in my conscience, before God and the world, that our Sovereign Lord KING CHARLES, is lawful and rightful King of this realm, and of all other his Majesty's dominions and country's, and that the Pope, neither of himself, nor by any authority of the Church, or Sea of Rome, or by any other means with any other, hath any power or authority to depose the King, or dispose any of his Majesty's kingdoms or dominions, or to authorize any foreign prince to invade or annoy him or his country's, or to discharge any of his subjects of their allegiance and obedience to his Majesty, or to give license or leave to any of them to bear arms, raise tumults, or to offer any violence or hurt to his Majesty's royal person, state, government, or to any of his Majesty's subjects within his Majesty's dominions. Also I do swear from my heart, that notwithstanding any declaration or sentence of excommunication, or deprivation made or granted, or to be made or granted by the Pope or his successor, or by any authority derived or pretend to be derived from him or his See against the said King, his heirs and successors, or any absolution of the said subjects from their obedience, I will bear faith and true allegience, to his Majesty, his heirs and successors, and him and them will defend to the utmost of my power, against all conspiracies and attempts whatsoever, which shall be made against his or their persons, their crown and dignity, by reason or colour of any such sentence or declaration, or otherways, and will do my best endeavours to declare and make known unto his Majesty, his heirs and successors, all treasons and tratorus conspiracies, which I shall know or hear of, to be made against him or any of them. And I do further swear, that I do from my heart abhor, detest and abjure, as impious and heretical, this damnable doctrine and positions that princes which be excommunicate or deprived by the Pope, may be deposed or murthered of their subjects, or any other whatsoever, and I do beleive and in conscience am resolved, that neither the Pope nor any other person whatsoever hath power to absolve me of this oath or any part thereof, which

I acknowledge by good and full authority to be lawfully administered unto me, and do renounce all pardons and dispensations to the contrary, and these things I do plainly and sincerely acknowledge and swear according to the express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, or a mentall evasions, or secret reservation whatsoever, and I do make make this recognition and acknowledgement heartily, willingly and truly, upon the true faith of a Christian. So help me God."

The first day for public thanksgiving in the province, recognized by legislative authority, was appointed by an act passed in October, 1676. As this is the first legislative action in New Jersey relative to the now national holiday, the quaint act and its quainter preamble are quoted:

"X. WHEREAS there hath been signal demonstration of God's mercy and favour towards us in this colony, in the preserving and continuing our peace in the midst of wars round about us, together with many other mercies which we are sensible of, which call aloud for our acknowledgment and thanksgiving to the Lord,

"Wherefore be it enacted by this Assembly, that there be a day of publick thanksgiving, set a part throughout the whole Province, to give God the glory and praise thereof, and oblige us to live to his praise, and in his fear always, which day shall be the second Wednesday in November next ensuing."

The second Legislature specifically re-enacted such laws passed at the first meeting as they deemed necessary, so as to resuscitate them and again put them in force, but in 1676, this general act was passed:

"XIV. WHEREAS by the Concessions no laws made by the General Assembly, shall stand in force for above one year, except confirmed by the Lord Proprietor."

"BE IT ENACTED THEREFORE by this present Assembly that the laws already made the last year, shall continue in as full force as before, until the next General Assembly."

In 1678 the Legislature passed an act by which it was provided "that the laws formerly made and in being shall be renewed again for the year ensuing."

In 1679 a special statute was passed providing that the act prohibiting any person from supplying the Indians with strong drink should still "continue and stand in force for the ensuing year." And at the same session it was enacted that laws formerly made and in being

should be renewed again for the ensuing year, except one, which provided for the expenditure of 150 pounds for the encouragement of trade.

There seems to have been no meeting of the Legislature for 1680, and in 1682 the meetings for the two provinces—East and West Jersey—were held separate and continued to be so held until the year 1702, when the authority granted the Lords Proprietors for organizing a government in New Jersey was surrendered to Queen Anne and East and West Jersey were again united, the government continuing under one Legislature and Governor.

When the owners of West Jersey became vested with the title in fee, they took measures for the settlement by immigration of their part of the province and issued a proclamation inviting settlers and offering the most liberal terms to any who should transfer themselves or servants before "the first day of the month commonly called April, which shall be in the year of our Lord 1677." They promised this: For each immigrant, seventy acres of land, English measure, and for every able bodied man servant coming with such immigrant, he was to receive seventy acres more. To those who should send servants before that date, they promised for every able bodied man servant, seventy acres, and for every woman servant, and for every weaker servant, male or female, "over fourteen years," fifty acres of land, and after the expiration of service, fifty acres of land were guarantied to such servants, to them and their heirs forever. To immigrants arriving after 1677, lesser amounts were promised; but, to all these grants was attached the condition that one-half penny per acre should be paid for rent. Very liberal provisions were made for the laying out of towns and of streets and highways.

These provisions were embodied in what were called the "concessions and agreements," which were of the most liberal character possible, and were declared to be the common law or fundamental rights and privileges of West New Jersey and "are individually agreed upon by the Proprietors and freeholders thereof to be the foundation of government, which is not to be altered by the Legislative authority or free Assembly hereafter mentioned and constituted, but that said legislative authority is constituted according to these fundamentals, to make such laws as agree with and maintain the said fundamentals and to make no laws that in the least contradict, differ or vary from the said fundamentals, under what pretence or alligation soever." The broad-

est license was given to the settlers in West Jersey for the exercise of their rights as citizens and of their belief as Christians.

It is evident that not only liberal views, but that master intellects dictated these "concessions and agreements." Their title is significant; they were not only "Concessions" by the Proprietors, but they were "Agreements" between the government—these Proprietors, and the governed—the inhabitants. It was a most remarkable document, far beyond the spirit of the times, penetrated with ideas of the purest freedom and based upon true equality. The rights of all were protected and preserved by it and none were injured or molested by any of its provisions. William Penn's name appears prominent amongst these Proprietors; he was foremost in the affairs of the new province, took a deep interest in moulding and shaping its government and it is altogether probable that his broad mind and enlightened sentiments had much to do with their preparation.

Before the division of the colony many Quakers had settled in what afterwards became West New Jersey, and immediately after that division, there was a large influx of the same denomination, so that they composed the great majority of the citizens and exercised a controlling influence in all governmental affairs. The method of dating these concessions and their peculiar wording denote that they came from the hands of Quakers and the paternal character of the after legislation plainly shows that their influence was dominant at that time in West New Jersey.

These "Concessions and Agreements" were in fact, the Constitution of West New Jersey and take so large a share in the Civil History of the Colony and State that their most important provisions ought be noticed.

By the terms of the quintipartite deed, the government of the province of West New Jersey, as well as the title in fee to the land, was really or impliedly vested in William Penn, Gawn Lawry, Nicholas Lucas and Edward Billinge or their assigns. Doubt was entertained by some of the grant of governmental authority, but the doubt never materialized to such an extent as to induce the doubters to take any legal action. Penn, his three associates and their assignees quietly administered the government, exercising sovereignty to its fullest extent, without question, until the surrender to Queen Anne, in 1702. The "Concessions and Agreements" were indubitably executed by men who really believed that they were the actual rulers of the coun-

try; they spoke unequivocally, unmistakably, as sovereigns. It requires no very critical examination of this remarkable document to understand the view which they entertained of the matter. But, while there was this pronounced claim to sovereignty, it was accompanied in a most remarkable manner by the acknowledgment of all the rights of the governed. The government instituted by the Proprietors, if carried out according to the Concessions, would have been almost patriarchal.

By the first chapter of this Magna Charta of West New Jersey, it was provided that certain officers, called Commissioners, who afterward filled a most important place in the colony, should at first be appointed by the Proprietors, but by the third chapter, all succeeding Commissioners were to be elected by the people.

By that chapter, the third, it was provided that on the "five and twentieth day of the month called March, which shall be in the year according to the English account, one thousand six hundred and eighty, and so thence forward, upon the five and twentieth day of March yearly, by the ninth hour in the morning of the said day," the proprietors, freeholders and inhabitants should assemble in some public place to be appointed by the commissioners for the time being and if no appointment were made then in such place as the voters should deem proper and then and there "elect of and amongst themselves, ten honest and able men, fit for government, to officiate and execute the place of commissioners for the year ensuing, and until such time as ten more for the year then next following, shall be elected and appointed: which said elections shall be as followeth, that is to say, the inhabitants each ten of the one hundred proprietors shall elect and choose one, and the one hundred proprietors shall be divided into ten divisions or tribes of men." This election was to be by ballot, "to avoid noise and confusion, and not by voices, holding up of the hands or otherwise howsoever." It was also provided that these commissioners so to be elected annually "should govern and order the affairs of the said province (per tempore) for the good and welfare of the said people, and according to these our concessions, until such time as a General Free Assembly shall be elected and deputed in such manner and wise as is hereafter expressed and contained."

The Commissioners appointed by the proprietors had almost unlimited power to appoint and set out fit places for towns, to limit the boundaries thereof, to take care that they should be regularly built,

and they were generally to order the affairs of the province, according to the Concessions however, and also in accordance with any other instructions that should be given them by the major part of the proprietors, until such officers were chosen by the inhabitants. They were also invested with powers over certain minute regulations, such as the grazing of cattle on the land; to take care that after a certain term of possession lands should not be subject to review, re-survey or alteration of bounds. One of the most important duties intrusted to them was a supervision of the courts established by law and that they should provide for the due execution by the several officers of these courts of their duties according to the laws in force. They even had the right to displace or punish these officers for violating the laws or acting "contrary to their duty and trusts, as the nature of their offences shall require." If they saw proper "after condemnation or sentence past upon any person or persons by any judge, justice or court whatsoever," they could reprieve or suspend the execution of the sentence until the next General Assembly, when the copy of the whole trial proceedings or proofs should be presented to the Legislature, who might either pardon or put the sentence of the court into execution, but, in the mean time, the offenders were to be kept in safe custody. They were to do all other "thing or things that may conduce to the safety, peace and well government of the said province, and these present concessions and that all inferior officers be accountable to the commissioners and they to be accountable to the General Assembly." They could not, however, impose or suffer to be imposed any tax or other duty whatsoever "upon any color or pretense, how specious soever, upon the said province and inhabitants thereof without their own consent first had, or other than what shall be imposed by the authority and consent of the General Assembly, and that only in the manner and for the good ends and uses as aforesaid."

No oath of office was required from them, nor indeed from any officer, but they were obliged to subscribe and promise that they would "truly and faithfully discharge their respective trusts according to the laws of the province and the tenor of these concessions and to do equal justice and right to all men according to their best skill and judgment, without corruption, favor or affection." If they violated this promise they were liable to be punished or fined and to be incapable of holding any office in the colony.

Although no oath could be taken, not even by witnesses in the courts

of justice, and their testimony was given upon solemn affirmation; yet any giving false evidence "for fear, gain, malice or favor ' should be severely fined and disabled from ever being a witness again or holding public office.

Full provisions were made for the recording of deeds and other documents which had been properly acknowledged.

The Indians resident in the province were assured in their rights and even if any one of them committed a trespass upon the whites, notice was to be given to the sachem, or such as had authority over the offending savage, to the end that justice might be done without any wrong being committed upon the poor Indian. And so, on the other hand, if any wrong was committed by a white upon a native, and complaint made, provision was made for full satisfaction according to the nature and quality of the offence or injury. Mixed juries were provided for the trial of causes where any of the Indian natives were concerned and these mixed juries were to be impartially chosen so that exact justice should be meted out to all parties. If any person should be found guilty of murder or treason "the sentence and way of execution thereof, was left to the General Assembly to determine as they in the wisdom and judgment of the Lord should judge meet and expedient."

Full provision was made for the election of members of the Assembly, as appears by the following quotation. Chap. XXXII. "That so soon as divisions or tribes, or other such like distinctions are made; that then the inhabitants, freeholders, and proprietors, resident upon the said Province, or several and respective tribes, or divisions or distinctions aforesaid, do yearly and every year meet on the first day of October, or" (of?) "the eight month, and choose one Proprietor or freeholder for each respective propriety in the said Province, (the said Province being to be divided into one hundred proprieties) to be deputies, trustees or representatives for the benefit, service and behoof of the people of the said Province: which body of deputies, trustees or representatives, consisting of one hundred persons, chosen as aforesaid, shall be the general, free and supream assembly of the said Province for the year ensuing and no longer. And in case any member of the said Assembly during the said year, shall decease or otherwise be rendered incapable of that service, that then the inhabitants of the said propriety, shall elect a new member to serve in his room for the remainder of the said year."

Any one who should "give, bestow or promise directly or indirectly

to the said parties electing, any meat, drink, money or money's worth, for procurement of their choice and consent, shall be incapable of being elected a member of the said Assembly." The elections were to be conducted by ballot. The Legislature had the power of appointing their own times of meeting and of adjournment to such times and places as they might think best, to establish the number of their quorum, not less than one-half of the whole however.

Liberty of speech was granted in the General Free Assembly; all questions were to be stated with deliberation and liberty for amendments; "that it be put by the Chairman, by them to be chosen, and determined by plurality of votes." Every member had the right of entering a protest if he chose and his reasons for such protest. The yeas and nays might be required and the names of the representatives voting be registered and the people were to be permitted "to have liberty to come in and hear and be witnesses of the votes and the inclinations of the persons voting."

The Legislature had power to enact "and make" all laws necessary for the well government of the province with power of repeal, "provided that the same be as near as may be conveniently, agreeable to the primitive, antient and fundamental laws of the nation of England. Provided also that they be not against any of those our Concessions and fundamentals before or hereafter mentioned."

The Legislature had power to constitute all courts and to limit the powers and jurisdiction of the same, consonant to the concessions, however; to appoint the several judges, officer and number of officers belonging to each court; "to continue such time as they shall see meet, not exceeeding one year or two at the most, with their respective sallaries, fees and perquisites, and their appellations, with the penalties that shall be inflicted upon them, for the breach of their several respective duties and trusts. And that no person or persons whatsoever, inhabitants of the said province shall sustain or bear two offices in the said Province, at one and at the same time."

All the Justices and Constables were to be chosen by the people and all commissioners of the public seals, the treasurers and chief justices, ambassadors and collectors were to be chosen by the Legislature. Equal taxation and assessments upon all lands and persons "within the province" as often "as necessity shall require and in such manner as to them" (the Legislature) "shall seem most equal and easy to the inhabitants in order to the better supporting of the publick charge

of the said government, as also for the publick benefit and advantage of the said people and Province."

But the most extraordinary part of the concessions is that found in the XVI clause, which reads as follows:

"That no men, nor number of men upon earth, hath power or authority to rule over men's consciences in religious matters, therefore it is consented, agreed and ordained, that no person or persons whatsoever within the said Province, at any time or times hereafter, shall be any ways upon any pretence whatsoever, called in question, or in the least punished or hurt, either in person, estate, or priviledge, for the sake of his opinion, judgment, faith, or worship towards God in matters of religion. But that all and every such person and persons, may from time to time and at all times, freely and fully have, and enjoy his and their judgments, and the exercises of their consciences in matters of religious worship throughout all the said Province."

This clause rings with the true spirit of toleration, and there can be no possible doubt of its meaning. The Quakers who published these concessions to the world challenged the views and antagonized the action of the great majority of Christendom. Less than a century had elapsed since all Europe had been convulsed with war fought for toleration and the right had not always been successful. Fifty years before Gustavus Adolphus fell a martyr for religious toleration. Baptists and Quakers were still whipped and hung in New England, and the Dissenters were driven from Old England. The Edict of Nantes had not yet been revoked and the true principles of religious freedom was not understood except by a very few. William the Silent had proclaimed it as a right inherent to humanity, but the declaration had cost him his life.

It remained for these Friends, simple minded, but wiser than their day and generation, to announce this grand truth, then so little known or appreciated, with an intensity of purpose which fully evinced that they were determined that the settler on the virgin soil of New Jersey should be protected at all times and at all hazards, in this inestimable right.

These are some of the important matters contained in the "Concessions and Agreements." There were many other minor provisions, but these quotations give full evidence of the wisdom of the Proprietors and their desire to provide for the very best interests of the people of their province.

To keep them constantly before the people, it was provided "that these Concessions, law or great charter of fundamentals, be recorded in a fair table, in the Assembly House and that they be read at the beginning and dissolving of every general free Assembly: And it is further agreed and ordained, that the said Concessions, common law, or great charter of fundamentals, be writ in fair tables, in every common hall of justice, within this Province, and that they be read in solemn manner four times every year, in the presence of the people, by the Chief Magistrate of those places."

The first Legislature of West New Jersey convened at Burlington, on the 21st day of "the 9th month, called November 1681" and continued in session until the 28th day of the same month. "On the 15th day of the eleven month, called January, 1681," according to the mode of computing time then in vogue, but in what would now be called January, the first month of the year 1682, Samuel Jenings, the Deputy Governor, approved the acts passed at this session. In the "Concessions" the Legislature is called "The General Free Assembly" and was composed of the Governor, or his Deputy and Council and representatives elected by the inhabitants of the "tenths" into which the Province was divided. This Legislature must have been called together by Jenings acting as Deputy Governor. He had been appointed such Deputy by Edward Billinge. This man, Billinge, was a brewer residing at London, and had been an officer in Cromwell's army. He had an interest in the purchase of West New Jersey, as appears by the "Quintipartite Deed," but the amount of it was uncertain and in dispute. Lord Berkeley had become dissatisfied with the pecuniary profits of his colonization scheme and had sold his moiety in New Jersey to John Fenwicke, but Edward Billinge was the real buyer. This dispute was referred to William Penn as arbitrator, who decided that Fenwicke was entitled to one-tenth and that the balance of Billinge's interest should be held for the benefit of his creditors. Penn's arbitrament was deemed satisfactory by all, or, at least, was acquiesced in. Billinge had become insolvent and his interest in the province was conveyed to trustees, in trust for the payment of his debts. He was appointed Governor, however, of West Jersey and deputed Jenings, who resided there, to act for him.

On the 25th day of November, 1681, with considerable form and ceremony, and with due solemnity, the Legislature made certain proposals to the Governor, in the shape of what they called "Fundamen-

tals." It would seem from the reading of the "Concessions and Agreements," that every possible right which could be claimed by the citizens of the new province was protected by that remarkable document and that the people were guarded from any interference in the exercise of their privileges. But, judging by their action, the Assembly thought it necessary to further protect and guard and they made the acceptance of Jenings, as deputy governor, dependent upon the direct compliance by the Governor with the demands made in these Fundamentals. The intention of the Legislature doubtless was to limit the power of the Governor and so restrain him that by no possibility could he interfere with any rights of the people. In these modern times, these "Fundamentals" would be called a "Bill of Rights." They were remarkable for two characteristics: First, their negative character. There were ten clauses, seven of which declared what the Governor should not do, and the other three, what should be done. Second: the language used in the Preamble: "The Governor and Proprietors, freeholders and inhabitants of West New Jersey, by mutual consent and agreement, for the prevention of innovasion and oppression, either upon us or our posterity, and for the preservation of the peace and tranquility of the same; and that all may be encouraged to go on chearfully in their several places; We do make and constitute these our agreements to be as fundamentals to us and our posterity, to be held inviolable, and that no person or persons whatsoever, shall or may make void or disanul the same upon any pretence whatsoever." The following are the ten clauses of these "Fundamentals" which follow the Preamble already quoted:

"I. That there should be a General Free Assembly for the province aforesaid, yearly and every year, at a day certain, chosen by the free people of the said province, whereon all the representatives from the said Province, shall be summoned to appear, to consider of the affairs of the said Province, and to make and ordain such acts, and laws, as shall be requisite and necessary for the good government and prosperity of the free people of the said Province; and (if necessity shall require) the Governor for the time being with the consent of his Council, may and shall issue out writts to convene the Assembly sooner, to consider and answer the necessities of the people of the said Province."

"II. That the Governor of the Province aforesaid, his heirs or successors for the time being, shall not suspend or defer the signing sealing and confirming of such acts and laws as the General Assembly (from



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time to time to be elected by the free people of the Province aforesaid) shall make or act for the securing of the liberties and properties of the said free people of the Province aforesaid."

"III. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, at any time or times hereafter, to make or raise war upon any accounts or pretence whatsoever, or to raise any military forces within the Province aforesaid, without the consent and act of the General Free Assembly for the time being."

"IV. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, at any time or times hereafter, to make or enact any law or laws for the said Province, without the consent, act and concurrence of the General Assembly; and if the Governor for the time being, his heirs or successors and Council, or any of them shall attempt to make or enact any such law or laws of him or themselves without the consent, act and concurrence of the General Assembly; that from thenceforth, he, they, or so many of them as shall be guilty thereof, shall, upon legal conviction, be deemed and taken for enemies to the free people of the said Province; and such act so attempted to be made, to be of no force."

"V. That the General Free Assembly from time to time to be chosen as aforesaid, as the representatives of the people, shall not be prorogued or dissolved (before the expirance of one whole year, to commence from the day of their election) without their own free consent."

"VI. That it shall not be lawful for the Governor of the said Province, his heirs or successors for the time being, and Council, or any of them, to levy or raise any sum or sums of money, or any other tax whatsoever, without the act, consent and concurrence of the General Free Assembly."

"VII. That all officers of State, or trust, relating to the said Province, shall be nominated and elected by the General Free Assembly for the time being, or by their appointment; which officer and officers shall be accountable to the General Free Assembly, or to such as the said Assembly shall appoint."

"VIII. That the Governor of the Province aforesaid, his heirs or successors for the time being, or any of them, shall not send ambassadors or make treaties, or enter into an alliance upon the publick account

of the said Province, without the consent of the said General Free Assembly."

"IX. That no General Free Assembly hereafter to be chosen by the free people of the Province aforesaid, shall give to the Governor of the said Province for the time being, his heirs or successors, any tax, or custom for a longer time than for one whole year."

"X. That liberty of conscience in matters of faith and worship towards God, shall be granted to all people within the Province aforesaid; who shall live peaceably and quietly therein; and that none of the free people of the said Province, shall be rendered uncapable of office in respect of their faith and worship."

"Upon the Governors acceptance and performance of the proposals herein before expressed, we the General Free Assembly Proprietors and Freeholders of the Province of West New Jersey aforesaid, do accept and receive Samuel Jenings as Deputy Governor."

"In testimony whereof I have hereunto put my hand and seal, the day and year above written."

"SAMUEL JENINGS, Deputy Governor."

"THOMAS OLLIVE, Speaker, to the General Free Assembly per order and in the name of the whole Assembly."

It will be noticed that by the terms of the "Fundamentals" the Legislature refused to accept Jenings as Deputy Governor, unless the Governor himself agreed to the proposals contained in them. The Governor did agree to them, Jennings was accepted Deputy Governor by the Legislature and continued to hold that position until 1684, when Thomas Ollive, who was Speaker of the first Legislature became Governor.

Thomas Ollive was one of the leading men of the new province, held in the highest esteem by all the inhabitants and was unanimously elected Speaker of the Legislature for several years. He was a Quaker, of the people, a plain farmer, of excellent good sense, of sound judgment and possessing an intuitive discrimination between right and wrong. His advice was universally sought and his services as arbitrator and judge, to decide matters of difference between his fellow citizens, eagerly solicited. His meadow, or field, was often his court room; parties would visit him as he was ploughing or engaged in cultivating his farm, state their cases to him; if necessary, produce their witnesses and, seated upon a stump, he would give judgment on the spot without the assistance of jury or counsel. So much deference was

paid to his sagacity, so much confidence placed in his honesty and wisdom, that the litigants, even the unsuccessful, generally left his improvised court room entirely satisfied with his decision.

The "Fundamentals" were "ordered and appointed by the said Deputy Governor and General Free Assembly" to be recorded by the Clerk and are still in existence at Burlington, beautifully engrossed and in an excellent state of preservation.

This action of the Assembly, in insisting upon the acceptance by the Governor of the proposals contained in these "Fundamentals" is significant in more senses than one: By it they provided for the present protection of the rights of their constituents, but were also far-reaching in their plans, looking as well to the future welfare of the province. It is evident, also, that it was believed by them that the Proprietors had the right of government, but, while they acknowledged this, they determined by their action that there should be no oppression of the citizens or interference with their privileges. It ought not be charged, however, that there was any lack of confidence in their Governor. He was a Quaker like themselves, had been appointed by the Proprietors, who were also Quakers, lived in London, had little to do with the affairs of the province and deputed all his authority to Jenings who was worthy of confidence and had the entire respect of the community.

One part of the Preamble, which has not been quoted, is somewhat amusing, certainly in one aspect; as it displays the egotism of its framers, who declared themselves to be a people "whom it had pleased God, to bring into this province of West New Jersey and settle us here in safety, that we may be a people to the praise and honor of his name, who hath so dealt with us."

But there is a stronger and better feeling manifested in the expressions so used, when they acknowledge God, as the author of all their blessings, and admit their entire dependence upon him.

The acts passed by this first Legislature of West Jersey are remarkable for some omissions. In all the thirty-six statutes there is no specific punishment provided for the commission of any crime except in one single instance: By the XXVIIIth section it was enacted "that whosoever shall presume within this province, directly or indirectly, to sell any strong liquors to any Indian or Indians, shall for every such offence forfeit and pay the sum of three pounds." No provision is made anywhere for the punishment of any capital offence. Penalties generally were provided for certain offences; perjury, offer-

ing an affront to the public authority of the province, robbery, theft, assault and battery. Perjury was punishable by fine, the amount of which was not fixed, and the perjurer should forever be disabled from "being admitted an evidence or into any public office, employment or service within the province." Those affronting the public authority were to be punished and fined according to the discretion of the court. Those committing robbery or theft, were to restore four-fold out of their estates. If restitution could not be made in this manner, then, the criminal was "to be made work for his theft, for so long time as the nature of the offence shall require, or until restitution be thereby made four-fold, or as twelve men of the neighborhood shall determine, not extending to life or limb."

Assault and battery was to be punished "according to the nature of the offence which is to be determined by twelve men of the neighborhood."

No courts of civil or criminal jurisdiction were created, although such tribunals were mentioned in several of the acts. By the second it was enacted "that the Governor and Commissioners for the time being, are to see that all courts established, or to be established by the laws and constitutions of the General Assembly of this province, do or shall execute their several duties and offices respectively, according to the laws in force."

By the sixth, it was provided "that no proprietor, freeholder or inhabitant of the province aforesaid, shall be deprived or condemned of life, limbs, liberty, estate, property, or any ways hurt, in his or their privileges, freedoms or franctuzes" (sic) "upon any account whatsoever, without a due tryal and judgment, passed by twelve good and lawful men of the neighborhood first had according to the laws of England." Peremptory challenges were allowed to the accused "not exceeding thirty-five" beside challenges for cause.

Running all through the acts, will be found similar reference to courts, without specifying whether they are civil or criminal, and in one is found this singular provision: "That there shall be in every court, three justices or commissioners, at the least, who shall sit with the twelve men of the neighborhood, and with them to hear all causes, and to assist the said twelve men of the neighborhood in case of law; and that the said justices or commissioners shall pronounce such judgment, as they shall receive from and be directed by the said twelve men, in whom only the judgment resides and not otherwise: and in case of their

neglect or refusal, that then one of the twelve by consent of the rest, shall pronounce their own judgment as the justices or commissioners should have done. And if any judgment shall be passed in any cause, civil or criminal, by any other person or persons, or any other way then" (than?) "according to this agreement, and appointment, the same shall be held null and void; and such person or persons so presuming to give judgment, shall be severally fined; and upon complaint made to the General Assembly, by them be declared incapable of any office or trust within this Province." This act is almost an exact copy, verbation et literatim, of a provision in the concessions.

By chapter 9th it was enacted: "All and every person and persons, whatsoever within this Province, who shall prosecute or prefer any indictment for" (or?) "information against any other person or persons, or" (for?) "any personal injuries or matters criminal, or for any other criminal cause or causes relating to him or themselves, treason, murder, and fellony, only excepted, shall and may be master of his or their own process, and have full power to forgive and remit the penalty or punishment inflicted, or to be inflicted, upon the person or persons who have offended against him or themselves, as well before as after judgment and condemnation."

By the XXIst chapter, this strange provision was made: "That a general act of indemnity is given to all persons within this Province, for all crimes and misdemeanors against any person or persons, relating to the former government." By what authority a Legislature not in existence at the time of the commission of an offence in another jurisdiction, could undertake to remit such an offence, does not appear, and no modern court would sustain such an act.

Meetings of the Legislature of West New Jersey were held regularly every year until and including the year 1701.

There were some important additions to the jurisprudence of the country made by the Legislatures of the two provinces, after the division, which have not been noticed, but which are worthy of mention. In 1679, the Legislature of East New Jersey made lands, except such as were entailed, liable for the payment of debts. The method of obtaining satisfaction for judgments, out of land, was peculiar, and therefore, the whole act is quoted.

"Be it enacted that if any person or persons within this Province, shall for the satisfying of an execution by any person lawfully obtained against him or them, set out his or their lands (entailed lands excepted)

for satisfaction of the said execution as above expressed, shall give for himself, his heirs and assigns, a deed of sale of the said land, to him, his heirs and assigns, for whom the said execution was obtained, and all lands so obtained shall be and remain to him, his heirs and assigns forever. And it is also enacted, if any person for setting out his land as aforesaid, refuse to give a bill of sale, shall be imprisoned till he doth satisfy the debt and charges, to sign a bill of sale."

In 1682, this provision was thus modified, by Chapter III of the acts passed at that year's session: "that when, and so often as the Sheriff of any County, shall have any writ of execution directed to him, out of any court of record within this Province, recovered by judgment against any Defendant, that upon the seizure of the defendant's lands, goods or chattles, the plaintiff, or his attorney, shall elect and appoint one appraiser, and the defendant another, and for the default of the defendant's election and appointment of one appraiser, the plaintiff, or his attorney, to elect and appoint two men of good reputation, who shall then and there before the Sheriff, (who is hereby impowered to administer the same) take their oath, or solemnly promise, as in the presence of God, that they will make true appraisement of such lands, goods and chattles, to the best of their knowledge and understanding: And that in case the defendant shall not upon such appraisement made, pay the said debt or damages recovered, and also the costs of suit, that then and in such case, the Sheriff shall deliver the lands, goods and chattles to the plaintiff, his attorney or agent, who may keep the same in his custody, for and during the space of six weeks; and if the defendant or his assigns, do not in that time pay the said debt or damages recovered, with costs of suit, then the plaintiff shall have and keep the same, to the use and behoof of him the said plaintiff, his heirs, executors and assigns, according to the said appraisement. And in case the said appraisement amount not unto the debt, damages, and lawful costs of suit, then the plaintiff shall and may have process for the residue of the same. And in case the said lands, goods and chattles exceed the said debt, damages and costs of suit, the plaintiff shall return the overplus either in goods as appraised, or the value thereof in money to the defendant; and the plaintiff at the cost and charges of the defendant, shall acknowledge, or cause to be acknowledged, satisfaction upon the record of the said judgment, the defendant giving and sealing to the plaintiff a release of all errors in the said judgment."

West New Jersey, in 1682, introduced the principle of making lands

liable for the payment of debts, in a much simpler, but most indefinite and unsatisfactory manner. The following is the act referred to:

"And for the preventing of fraud, deceit and collusions, between debtor and creditor, and that creditors may not be hindered from the recovery of their just debts; BE IT HEREBY ENACTED, . . . that persons who are or shall be indebted, and have land within this Province, and no personal estate sufficient to pay their debt, in such case, the land of such person or persons, shall be liable to pay debts."

Prior to this time, no land could be sold or taken absolutely for the payment of any debt recovered by judgment. How far the provision of the West New Jersey statute would go towards the satisfaction by sale of real estate, cannot be ascertained. What construction the courts gave to that statute, it is impossible to state, as there are no reports of the decisions of any courts of that time in existence.

As early as 1682, an attachment act was passed by the Legislature of East New Jersey which made ample provision for the recovery of any debt owing to inhabitants of the province, out of the estate real and personal, of any non-resident or absconding debtor. This act provided for the issuance of a summons out of the court of common right, or any county court; for its service upon any member of the family of the debtor, or by being left "at or in any of the houses, plantations or premises, together with the plaintiff's declaration in writing." After such service, if the defendant should not make appearance at the next court, "after such summons left, within twenty days, being given before the court for him to appear, ... after oath or solemn protestation made of such service as aforesaid," judgment might be given as if the defendant had appeared and not answered thereto. After judgment, execution might issue against all real and personal estate of the defendant "lying and being within this province; any law or usage in this Province, to the contrary thereof in any wise nowithstanding."

In 1683, the Legislature of West New Jersey also provided for an attachment against persons who should abscond or leave the province, but the remedy was guarded so as to work no damage to the other creditors than the one attaching, or against the estate of the defendant. It was provided that no creditor should have an attachment granted against the estate of a non-resident or absconding debtor, "until notice shall have been thirty days publickly given for the rest of the creditors to come in, that so such goods and estate may be equally proportioned

amongst such and so many of the creditors as shall within the time aforesaid, come in and prove the justness of his and their debt, before three or more of the magistrates of the said Province, who in the meantime, upon just ground and suspicion of the parties absconding, and complaint of any of the creditors, shall be and are hereby impowered to secure such goods and estate within the said Province for the use and intent aforesaid; and that such goods and estate at the next court after the same shall be secured, and the time before limited shall be expired, shall be then called forfeit to the creditors, and the same appraised and disposed of as aforesaid; and the overplus (if any be) to be returned to the owner thereof."

"Strangers and foreigners" desiring a warrant of arrest against any inhabitant of the province, were required to file security, "double the value of the debt or damages laid and pretended to prosecute his or their suit against such person or persons so arrested, that if it shall happen that such strangers or foreigners, who shall arrest any inhabitant or freeholders aforesaid, and shall not either prosecute his action, or if he shall prosecute, and it shall happen, that he or they shall be cast, and upon the same shall make his or their escape, by which means the defendant may be deprived of having his reparation upon him or them, that then such defendant may have his action against such sureties as aforesaid." If any clerk, empowered to issue the writ or warrant of arrest, should fail to take such security, he was made liable by the same act, to pay the defendant damages to be recovered by way of action "at common law." This act was passed by the Legislature of East New Jersey in 1682.

In the same year the same Legislature provided that no conveyance of the estate of a married woman should be valid unless the deed was acknowledged by her in the court of common right, on a secret examination, to have been executed by her freely without threats or compulsion from her husband.

In 1682, the Legislature of East New Jersey enacted a law entitled "A bill for the General Laws of the Province of East New Jersey." This act took cognizance of all civil and criminal matters which, at the time, seemed to affect the rights of the citizen. A few extracts from the act, will give an idea of its scope: "If a man borrow aught of his neighbor, and it be hurt or die, the owner thereof not being with it, the borrower shall make it good, but, if the owner be with it, he shall not make it good, if it be an hired thing, it came for his hire."

"Whoever shall afflict the widow or fatherless, shall be punished by the judges according to the nature of the transgression."

"That in all courts, all persons of all perswasions, may freely appear in their own way and according to their own manner, and their personally plead their own cause, if unable by their friends or attorneys."

"All process and proceedings on all courts of record within this province, should be as short as the case will bear, and in English."

"All tryals shall be upon the verdict of twelve men, and as near as may be, peers or equals, and of the neighborhood where the fact arises. In cases capital or criminal, there shall be a grand inquest who shall first present the offence, and then, twelve men of the neighborhood to try the offender after his plea to the indictment, reasonable challenges shall be allowed to every person offender."

"Fees in all courts shall be moderate, and hung up in tables in every court, and whoever shall be found guilty of extortion, shall be punished by the judges."

"The estates of murtherers, after debts paid, shall go one third part to the next of kin to the sufferer, and the remainder to the next of kinn to the criminal."

"That all wills in writing, attested by two credible witnesses, shall be of the same force to convey lands, as other conveyance being registered in the Secretaries office within this Province, within forty days after the testators death."

"If a man or woman, maim, or smite the eye of his or their man or maid servant, being a white servant, so that it perish or smite out the tooth of his or their man or maid servant, such servant shall go free; if master or mistress, or agent to such, immoderately correct their servants, they shall be punished for the same by the next sessions of the county court, where the fact arises or doth appear."

"That according to the good example of the premitive Christians, and for the ease of the creation, every first day of the week, called the Lord's day, people shall abstain from their common daily labour, that they may the better dispose themselves to worship God according to their understanding."

"That if any man shall absent himself or run out of this Province with another man's wife, (without her husbands consent) and after return hither, he and she so offending, and being lawfully convict thereof, shall each of them receive ten lashes upon their bare back. The

husband of such woman, may, after the expiration of six months, from the time of her going away, and unlawfully absenting herself, be *ipso facto* released from the obligations of marriage, and at liberty to marry another woman, and the former offending wife shall absolutely forfeit and leave all her claim to her said husbands estate, real and personal, and every part and parcel thereof; and her said husband, shall not be obliged to pay any debts contracted by her, after her absenting herself as aforesaid."

Ten years afterwards, the Legislature repealed the last part of this act permitting the husband to marry again, after the expiration of six months.

The twenty-four Proprietors of East New Jersey, by their fundamental constitution, provided for public registries for deeds in each county and declared that all grants of land, except leases for three years and under, not registered within three years, to be void.

The Proprietors of West New Jersey in their "Concessions and Agreements," "concluded and ordained" that there should be kept at London, in England, and within the Province of New Jersey, a "register," "and that all deeds, evidences and conveyances of land in the said Province of New West Jersey, that shall be executed in England, may also be there registered; and once every year, the register of the said deeds and conveyances, so registered, shall be duly transmitted, under the hands of the register and three Proprietors, unto the commissioners in New West Jersey, to be enroled in the publick register of the said Province."

Very full details were given as to the manner in which this register should be kept and as to the documents which might be recorded.

In 1695 the Legislature of West New Jersey enacted "An Act for the Recording of Deeds." By this statute it was provided "that all deeds and conveyances already made, or to be made, whereby any land is or shall be purchased, held, or claimed within any part of this Province, shall be brought to the respective clerk of each county, there by him to be duly entered and recorded if such deeds and conveyances are not recorded already." A penalty of twenty shillings was to be paid by any person who should not record his deed, already made, within six months from the publication of the law and all deeds, after such publication, were required to be recorded within six months after their execution, under the same penalty, unless the parties live beyond the seas or in foreign parts, in which case, two years were allowed for the re-

cording, after the publication of the law, or after the execution of the deed, as the case might be.

These references and quotations show, so far as regards the civil laws, a great similarity in the legislation of the two provinces, but, in all criminal laws, there is a marked distinction. The law makers of East New Jersey were stern and severe in the penalties they imposed. Thirteen different offences, according to the code established by them, were punishable by death. In West New Jersey, not a single crime, according to its laws, was subject to this extreme penalty. There was a marked mildness in West Jersey legislation. Crimes were mentioned; even capital offences, but, the punishment to be meted out to the offenders, in many cases was left to the discretion of the courts, in others, to the mercy and clemency of twelve men, selected from the vicinity where the offence was committed, or the criminal lived, and who were supposed to be so familiar with the circumstances as to be better able than all others to judge of the crime and any extenuating circumstances, and so, to impose a proper penalty.

There was one act, however, which relieved the laws of East New Jersey from their extreme severity and where that province, in its wisdom and far reaching thoughtfulness for the future prosperity of the inhabitants and their posterity excelled West New Jersey. It was passed in 1693 and was entitled "An Act for establishing Schoolmasters within this Province."

"WHEREAS the cultivating of learning and good manners tends greatly to the good and benefit of mankind, which hath hitherto been much neglected within this Province. *Be it therefore* enacted by the Governor, Council and Deputies in General Assembly now met and assembled, and by the authority of the same, that the inhabitants of any town within this Province, shall and may by warrant from a justice of the peace of that county when they think fit and convenient, meet together and make choice of three more men of the said town, to make a rate for the salary and maintaining of a schoolmaster within the said town, for so long time as they think fit: and the consent and agreement of the major part of the inhabitants of the said town, shall bind and oblige the remaining part of the inhabitants of the said town, to satisfy and pay their shares and proportion of the said rate; and in case of refusal or non payment, distress to be made upon the goods and chattles of such person or persons so refusing or not paying, by the constable of said town, by virtue of a warrant from a justice of the

peace of that county; and the distress so taken to be sold at a publick vendue, and the overplus, if any be after payment of the said rate and charges, to be returned to the owner."

The settlers from New England in New Jersey, made it their first care, wherever they settled, to provide for the religious wants of their communities, by the erection of meeting houses and the settlement of ministers of the Gospel. Their next care was to build school houses and employ teachers, and it is doubtless due to the predominance of this spirit, that this act was passed.

CHAPTER VII.

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York Claims Right to Impost Duties; Claim Resisted; Correspondence between York's Private Secretary and Andros; Commissioners of West Jersey Protest against York's Claim; The Duke Consults with Sir William Jones; Jones Decides against the Claim; The Duke Directs Deed of Confirmation, or Release, to be Prepared; Deed Executed to William Penn and Associates, Releasing the Claim; Condition of Affairs in New Jersey Prior to the Beginning of the Eighteenth Century; Weakness of Proprietary Government; The Earl of Perth and Lord Campbell; Written Protest of Commissioners against the Claim to Impost Duties; Inducements to the Proprietors to Surrender the Government; Negotiations for Surrender with William and Mary; "Memorial" from Proprietors of East Jersey to Council of Trade; Conditions upon Which Surrender Would be Made; Answer to "Memorial;" United Petition from Both Proprietors to the Lords Justices; Perth Amboy, Its Advantages as a Port of Entry; Reply of Proprietors to the Answer of Council of Trade; Joint Memorial of Proprietors to King; Opinion of Board of Trade on the Question of Surrender; In 1702 Anne Becomes Queen; Surrender, 15th of April, 1702; Accepted by the Queen; Cornbury Becomes Governor and the Two Provinces Consolidated; Consequences of Surrender; "Grants and Concessions" and "Concessions and Agreements" Cease to Have Any Force; "Instructions" to Cornbury; Their Character; Quotations from Them; Comparison between "Instructions" and the "Grants and Concessions"; Sketch of Lord Cornbury; he is Removed in 1708.

The right of the Proprietors of both the provinces to governmental authority was severely contested. At first, when the colony was so sparsely settled that it was of no particular interest to any one to question the right, it was quietly acquiesced in; but, as soon as the inhabitants increased in number and the settlements assumed the form

of towns, and, especially, when the Proprietors made the demand for quit rent, which fell due March 25, 1670, the discontent became more and more pronounced. This discontent, at first, assumed the form of objection to the payment of the rent claimed by the Proprietors. It was insisted that they had no right to such claim; that the settlers had obtained their title to land by deeds from the real owners, the Indians, or by grants from Governor Nicholls, of New York. This part of the controversy has already received some consideration and it is only introduced again for the purpose of showing what seems to be the real origin of the dispute.

From rejecting the right of the Proprietors to collect quit rent, it was an easy step to the rejection of their right of governing. The inhabitants of both provinces, especially in East Jersey, very early after the demand of the proprietors for the payment of rent, loudly protested against the further exercise of their right of ruling claimed by them. It was argued that the grant by Charles II to his brother James, might possibly have conveyed that right to him, but that, when the Duke conveyed to Berkeley and Carteret, he did not, and he could not, transfer any authority of government. Of course, it was further argued that if James did not transfer that authority, or, if he could not, any subsequent conveyance of it by him, or by his assignees, would be inoperative and void.

Despite his grant to Berkeley and Carteret and the subsequent conveyances based upon that grant, by means of which West Jersey was eventually transferred to William Penn and his associates, the Duke of York, up to 1680, asserted the right to lay impost duties on all merchandise carried in vessels up the Delaware, and, in fact, had established a sort of custom house on that river where he intercepted the vessels. This claim was stoutly resisted, and was finally surrendered by James.

There are fortunately some bits of correspondence still in existence which throw light on the subject. The Duke had a Secretary, Sir John Werden. In February, 1675, Sir John wrote to Governor Andross: "I had almost forgot to tell you that you have as yet done nothing towards the adjusting of Sir George Carteret's pretensions in New Jersey, where I presume you will take care to keep all things in the same posture (as to the Duke's prerogatives and profits) as they were in your predecessor's time, until you shall hear of some alterations agreed to here." Undoubtedly Sir John Werden in writing this letter to Andross, had the support of his patron. He would hardly have dared interfere without it, in so important a matter.

In August, 1676, the Secretary writes again to the Governor: "I add thus much further in relation to Sir George Carteret's Colony of New Jersey, it is that I have acquainted his Royal Highness with what Mr. Dyre wrote to me about his late bickering with Captain Carteret, for not letting a present pass, &c. And though small matters are hardly worth notice, where Sir George Carteret himself is concerned (for whom the Duke hath much esteem and regard), I do not find that the Duke is at all inclined to let go any part of his prerogative which you and your predecessors have all along constantly asserted in his behalf, and so, though at present in respect to Sir George we soften things all we may, not to disturb his choler (for in truth the passion of his inferior officers so far infects him as puts him on demands which he hath no colour of right to), I verily believe should his foot chance to slip, those who succeed him must be content with less civility than we show him in this point, since that we should exercise that just authority his Royal Highness hath, without such reserves as though intended but favours now, may if confirmed, redound too much to the prejudice of your Colony." These letters undoubtedly had much to do with the oppressive acts inflicted by Andross upon the people of New Jersey.

The Commissioners of West Jersey made such an outcry against the exactions of the Duke of York and his agents that James was, at last, driven to have a consultation with Sir William Jones, an eminent lawyer of his time, in London. This Sir William Jones was probably an ancestor of the great Sir William Jones of the eighteenth century, the distinguished Eastern scholar and Judge under the East India Company over a large portion of Hindostan, whose discoveries in the Sanscrit language have made him famous.

On August 6, 1680, this memorandum was written: "Mr. Byllinge, for himself and others, having long insisted on their right derived from the Duke's grant to Lord Berkeley and Sir George Carteret, (as Proprietors of West New Jersey in America,) to be exempt from paying interest in customs or other duties, or being any ways under the jurisdiction of New York, but alleging the said West New Jersey to be wholly independent there: After many hearings by the appointments of his Royal Highness who was pleased to refer the whole matter to the decision of Sir William Jones, &c., at the last Sir William Jones gave his opinion under his own hand as followeth:

"'28th July, 1680.

"'I do humbly certify, that having heard what hath been insisted on

for his Royal Highness to make good the legality of the demand of five per cent. from the inhabitants of New Jersey, I am not satisfied (by anything I have yet heard) that the Duke can demand that or any other duty from the inhabitants of those lands. And that which makes the case the stronger against his Royal Highness is, that these inhabitants claim under a grant from his Royal Highness to the Lord Berkeley and Sir George Carteret, in which grant there is no reservation of any profit, or so much as jurisdiction."

"'Wm. Jones.'"

The Duke at once recognized the force of this opinion of the learned lawyer and on the 6th day of August, 1680, commanded his Secretary "to bring him a Deed of Confirmation (or Release) tendered by Mr. Byllinge, the more formally to convey the said West New Jersey to him and the rest of the Proprietors, and plainly to extinguish the demand of any Customs or other duties from them (save the rent reserved as at the first). His Royal Highness, through his Council at Law (Sir John Churchill and Sir George Jeffrey being both absent,) had neither drawn nor signed it, was pleased to execute the same accordingly, by reason that Mr. Byllinge urged the necessity of it now, to have the benefit of the ships' present voyage, some being now ready to sail unto those parts of West New Jersey above mentioned."

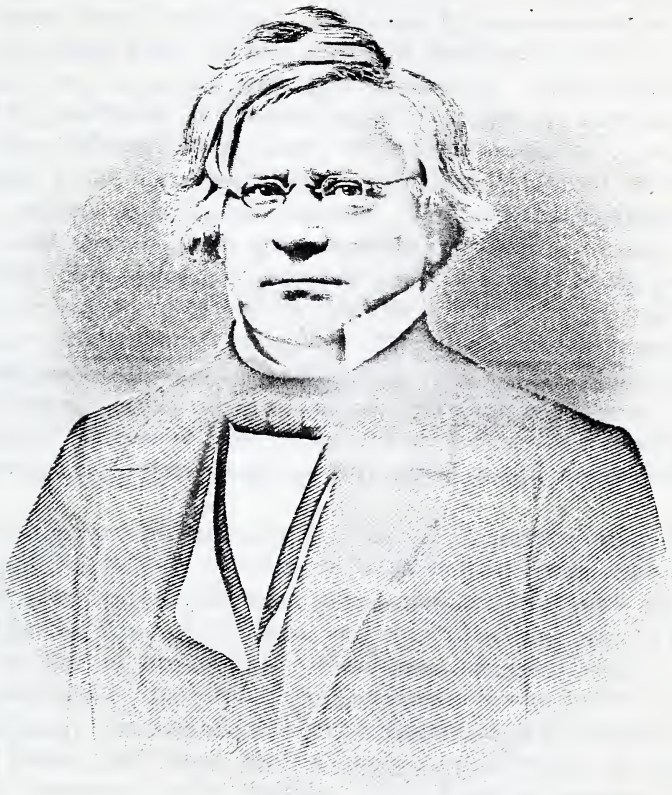
There is a word in this opinion of Sir William Jones which gives an insight into the manners of the time. A great lawyer "*humbly*" certifies his opinion to his client. Lawyers do not seem to have been held in high estimation, at least, by some of the inhabitants of the Colony. Among the inducements to immigration sent to the mother country, about that time, was this: That there were no lawyers nor ministers within the whole bounds of the colony!

In pursuance of these instructions by the Duke, a deed was prepared and executed by him to William Penn, Gawen Lawry, Nicholas Lucas, John Eldridge and Edmond Warner. This deed dated the 6th of August, 1680, after reciting the grant made to Berkeley and Carteret and the several deeds by which the grantees of this second conveyance became vested with the title to West New Jersey, and that, in consideration of a competent sum of lawful English money, paid to him, and for the better extinguishing of all such claims and demands, as his said Royal Highness may any ways have, of, or in the premises aforesaid, now called West New Jersey, or any part of them; and for the further and better settling, conveying, assuring, and confirming of the same,

and of every part thereof, according to the purport and true meaning of "these premises, hath granted, bargained, sold and confirmed and by these presents doth grant, bargain, sell, and confirm unto the said William Penn, Gawen Lawry, Nicholas Lucas, John Eldridge, and Edmund Warner, all that part, share and portion, and all those parts, shares and portions of all that entire tract of land, and all those entire premises so granted by his said Royal Highness unto the said John Lord Berkeley, and Sir George Carteret, and their heirs as aforesaid, as in, by, and upon the said partition aforesaid, was and were vested in the said William Penn, Gawen Lawry, and Nicholas Lucas, and their heirs, and then agreed to be called by the name of West New Jersey, together with all islands, bays, rivers, waters, forts, mines quarries, royalties, franchises, and appurtenances whatsoever, to the same belonging, or in any wise appertaining. And all the estate, right, title, interest, reversion, remainder, claim and demand whatsoever, as well in law as in equity, of him the said James, Duke of York, of, into, and out of the same, or any part or parcel of the same; as also the *free use of all bays, rivers and waters, leading unto or lying between the said premises, or any of them in the said parts of America, for navigation, free trade, fishing or otherwise.*"

This put an end to the pretensions of the Duke and the Delaware River was open to all comers to bring in their commodities for the purpose of sale or barter with the inhabitants of the Colony. Free trade with all the rest of the world was declared and became the law of the Province.

A new order of things was now about to obtain in both provinces. Up to this period the Colony had been in a formative state, subject, at first, to the authority of two English noblemen, but soon passing under the control of a constantly increasing number of rulers. These rulers, though invested with governmental authority, really had behind them no power by which they could enforce any legislation. They were simply "Lords Proprietors," to whom had been granted an authority which was disputed. They had no army by which they could quell insurrection. There were at first some few courts established by the people themselves, but, of course, through them they could secure no relief. Some courts had been organized by the Legislature prior to the close of the 17th century, but they also seemed powerless. The position was an anomalous one for the rulers and the ruled, and it was better for all parties that there should be a change.



Engd by A.H. Ritchie.

P. Vredenburgh

The inhabitants had largely increased in number; there were certainly, at the close of the seventeenth century, more than 10,000 people in New Jersey; towns had sprung up which had assumed an importance in governmental affairs. Legislatures had been summoned, but the popular branch had been controlled by representatives from the people who were never, at any period in the history of the Colony prior to this time, in accord with the Proprietors. The people had contemned the authority of those who had the right to exercise that authority; they refused to obey laws; to pay the expenses of the government; they broke open the doors of the jails and rescued prisoners who were confined under lawful process. The attrition between the Proprietors and their subjects was constantly increasing in force and virulence, and there seemed no possibility of the breach being closed.

The increase in the number of Proprietors in both provinces, already referred to, presented another difficulty. The interests of these owners, in many cases, were divergent, clashing with each other; each one had his own favorite scheme, and, of course, there was confusion. This was particularly the case in East Jersey, where the people became more and more restive and often broke out into actual rebellion and absolute riot.

The following fact will somewhat illustrate the condition of affairs connected with the holding of titles to lands in East Jersey where the Earl of Perth was one of the tenants in common. He was a staunch adherent of James, King of England, and one of the jury who, in 1681, had found the Earl of Argyle guilty of treason. Robert Barclay, who had been converted to the faith of the Quakers and who wrote the celebrated "Apology" in defence of his co-religionists, was Governor for life of East Jersey, and Lord Neill Campbell, the brother of Argyle, was Deputy Governor under Barclay. It is doubtful whether Perth joined in the appointment of Barclay or of Campbell; whether he did or not, the strange spectacle is presented of his important interests as a land owner, being committed to the charge of the brother of the man, in whose death he had been so instrumental.

Among these owners were Quakers and Roman Catholics, Roundheads and Cavaliers, Puritans and Episcopalians, those who insisted upon the divine right of kings to rule, and staunch Republicans. In view of this state of facts, it needs no argument to show that there must have been serious conflict of opinion as to the proper mode of action. Besides this, a writ of *quo warranto* had been issued out of the

English courts against the Proprietors to test their right of government, which was still depending.

There can be no possible doubt that the Lords Proprietors of East Jersey and the Proprietors of West Jersey honestly believed that they were legally entitled to absolute control of the government. In this belief, a large portion of the people of West Jersey participated but had taken no very decided action in opposition to their authority. The claim of the Duke of York to customs duties on the Delaware affords a memorable instance in the history of that province where this was fully manifested.

Not only the Proprietors of West Jersey, of whom William Penn was then one, but a large number of the Quaker inhabitants joined in a remonstrance to the Duke against this action. He was not disposed to listen to their complaints, but they earnestly and continuously persisted in their remonstrances, until, at last, the matter was referred to the Commissioners, to whom the Proprietors and the people addressed themselves. The document then prepared by the Proprietors which was approved by many of the citizens is still in existence It unmistakably asserts the right of the assignees of Berkeley and Carteret to rule their province and to collect the duties on imports if they so desired. This single expression, contained in the recital of the facts, upon which they based their opinion of the effect of the conveyance by James to his assignees, plainly reveals what that opinion was. They say: "Thus, then, we come to buy that moiety which belonged to Lord Berkeley for a valuable consideration; and in the conveyance he made us, *powers of government* are expressly granted; for that only could have induced us to buy it; and the reason is plain; because to all prudent men the government of any place is more inviting than the soil. For what is good land without good laws? The better, the worse. And if we could not assure people of an easy and free and safe government, both with respect to their spiritual and worldly property—that is, an uninterrupted liberty of conscience, and an inviolable possession of their civil rights and freedom by a just and wise government—a mere wilderness would be no encouragement; for it were a madness to leave a free, good, and improved country, to plant in a wilderness; and there adventure many thousands of pounds to give an absolute title to another person to tax us at will and pleasure. This single consideration, we hope, will excuse our desire of the government; not asserted for the sake of power but safety; and that, not only for ourselves but for others, that the plantation might be encouraged."

This condition of affairs in the provinces presented many inducements to the Proprietors to surrender their right of government. The exercise of that right resulted in no pecuniary profit; but, on the contrary, was attended with great expense; the people of East Jersey were in a state of ferment and constant agitation, and it seemed as if they never would be content until the government was taken from the Proprietors. The people of West Jersey, it is true, did not participate in any act of rebellion, but they were discontented and restive. If the government were surrendered and the fee of the land retained, the emoluments would be greater than though they were burdened with the expenses of Governors, Deputies and Officers. So, in the latter part of the reign of William and Mary, negotiations for the surrender were begun between the English Crown and the Proprietors, which were continued after the death of Mary, but no agreement was reached during the life time of William.

The first definite proposal came from the Proprietors of East Jersey and was made through a formal "memorial" signed "*by order and on behalf of the Proprietors*" by William Dockwra, Secretary and Register and addressed to the "*Council of trade and foreign Plantations.*" This was a body of officers constituted by William, after his accession to the throne, to whom he intrusted the care of the English colonies. There is no date to this "memorial," but, it must have been prepared in the year 1699, for, in the preamble to the answer by the Council, it is stated that it was received on the 5th of July, 1699. Prior to its date, there does not seem to have been any definite terms or conditions on which the surrender would be made.

The Proprietors claimed that they were indisputably vested by the grant from Charles to York, and by the succeeding mesne conveyances to them, with the powers of government over the province; but, in consideration of the premises "they do with humble confidence rely on his Majesty's Justice and Goodness to confirm to the Proprietors and Planters respectively, the following Rights and Privileges, to render them (at least), as easy under his Majesty's Government, as when under the Proprietors, toward which they presume to enumerate the following particulars, viz.:

I. That his majesty will be graciously pleased to confirm to them the soil and lands of the said Province and the quit-rents reserved upon the grants made or to be made to any planters or others.

II. That upon the annexation of the government of the said Prov-

ince to that of New York, the Port of Perth Amboy, may be established for entering ships and importing goods there, and exporting goods from thence, without being obliged to enter their ships at any other place, paying the same or like custom to his Majesty as are or shall from time to time be payable at New York.

III To have free liberty to trade with any Indians or other inhabitants of America, without interruption, and the Proprietors to have the sole privilege (as always hath been practiced) of purchasing from the Indians, all such lands lying within East Jersey, as yet remain unpurchased from them.

IV. All necessary officers and courts of justice for administration of justice, in cases criminal and civil, to be appointed and held in East Jersey, in the same manner as is practiced within the government of New York, and that the inhabitants may not be obliged to go to New York or be impleaded there for any criminal or civil matter arising within East Jersey, nor be compelled to serve upon juries or in any ministerial office within the Province of New York.

V. That a superior court be held twice a year at Perth Amboy, before whom writs of error or appeals (in the nature of writs of error) from other courts within the Province may be brought and determined.

VI. That the publick register and all records relating to the said Province may be kept at Perth Amboy, and not removed to any other place; and that the constituting of the secretary and register and the Surveyor General of the said Province of East Jersey, remain in the Proprietors.

VII. That the same number of counties be continued in East Jersey, as there are at present, and by the same names, and that each county in East Jersey may choose and send as many representatives to the general Assembly to be held for New York, and East Jersey, as are or shall be chosen by any county in New York, and if any more counties shall be hereafter created or appointed in New York, as many may be created and appointed in East Jersey.

VIII. That a proportionable number of the inhabitants of East Jersey, may be appointed to be of the Governor's Council at all General Assembly's and to have votes therein.

IX. That the twenty four Proprietors may be Lords of the soil, and hold courts for the lands in their propriety-ships, and appoint all officers that relate thereunto.

X. No person or persons whatsoever to be molested or deprived of any civil right or privilege, or rendered uncapable of holding any office or employment in the Government because of their religious principles, the Province being planted by Protestant people of divers perswasions, to whom that liberty was an original encouragement.

XI. That all wills of persons dying within East Jersey, and letters of administration of estates lying there, may be made and granted by the chief judge of East Jersey for the time being, who is to reside there, and a register thereof kept at Perth Amboy.

XII. That the Proprietors still have their power continued to grant markets and fairs in the said Province.

XIII. Lastly, all lands, goods and chattles of traitors, felons, felons of themselves, deodands, fugitives, persons outlawed and put in exigent, waifs, estrays, treasure trove, mines and minerals, royal mines, wrecks, royal fish, that shall be forfeited, found or taken within East Jersey, or by the inhabitants thereof, within the seas adjacent, to remain to the Proprietors, with all other privileges and advantages, as amply as in the grant and confirmation to them of the fourteenth of March, 1682."

To this "memorial" the Council returned what they called an "Opinion and answer of the Lords Commissioners for Trade and Plantations, to the Memorial of the Proprietors of East New Jersey in America; signed by Mr. Dockwra, and recorded from him the 5th of July, 1699."

"Article I. We have no objection to what is herein desired."

"Article II. We conceive his Majesty may do what is herein proposed, in case the Proprietors accept of a new charter, with such conditions as are reasonable with relation to their propriety; but that it is very improper for his Majesty to oblige himself to a compliance with this article by any clause in the new charter "

"Article III. The first part of this article is not reasonable, since it may happen to be sometimes advisable to restrain this liberty: But the Proprietors of East Jersey, may have the same liberty granted them of trading with the Indians as is granted to the inhabitants of New York, or any other plantation in America, under his Majesty's immediate government. What relates to the purchasing of lands may be allowed."

"Article IV. The first part of this article we conceive may be fit to be allowed (provided the officers be appointed by the King's Governor), but not without appeals in civil matters to the King's Governor

and Council, and to the King in Council: Nor so as to hinder tryals in criminal matters by his Majesty's special commission to be executed either in New York, or East Jersey, as shall be thought fit, New York, and East Jersey, being to be accounted one Province without distinction, except as to the propriety of lands and the *dominium utile.*"

"Article V. This article we think fit to be allowed of, provided there be a further appeal to the Governor of New York and Council, which is to consist as well of the inhabitants of East Jersey, as of those of New York, indifferently."

"Article VI. What relates to the publick registers and records to be kept at Perth Amboy, may be allow'd; but the not removing them to any other place upon any account whatsoever, when the publick service shall require it, seems unreasonable; and the Proprietors constituting of the Secretary and Register (which the King does everywhere appoint) does not seem fit to be allow'd: Nor is it fit there should be more than one Chief Secretary both for New York and New Jersey, who may appoint a deputy to officiate in his absence from either place."

"The Surveyor General has a more particular reference to the Proprietors and their lands, so that their constitution of such an officer may be allowed."

"Article VII. We have no objection against the number of counties; but the rest of this article seems to be wholly unreasonable; and in case East New Jersey be allowed to send one sixth part of the representatives of the General Assembly, and West New Jersey, one sixth part more (which would be one full third of the whole number of the representatives for New York, and the Jersey's) it is as much as can well be allowed; since otherwise these two Jersey's under Proprietors would come in competition with New York itself, and out vote that part of the Province, when united: So that one third of the number of the representatives for the Jersey's, and two thirds for New York, (or thereabouts) seems a reasonable proportion."

"Article VIII. This may be reasonable, but then the proportion must be agreed on, so as to answer that of the preceding article."

"Article IX. We have no objection to this article, in case those officers be no other than such as constitute a court baron or court leet in England."

"Article X. This article must be regulated by acts of Parliament, and the usages of New York it self."

"Article XI. Probate of wills is usually in the King's Governor, but he may appoint commissaries for executing the same in any part of his government."

"Article XII. We have no other objection than that this power is usually in the Governor."

"Article XIII. This article may be reasonable, except as to the goods and chattles of traitors, fugitives and persons out-law'd, which is matter of state; nor can right accruing to the Proprietors from the seas adjacent be well circumscribed; the grant also of 1682, ought to be duly considered, and such particulars therein as are proper may be allowed of, without such a general and determined reference."

The "Memorial" was duly signed on behalf of the Proprietors of East Jersey, and West Jersey does not seem to have taken any active part in promoting the surrender. A joint action of the two Provinces, of course, was desirable and, in fact, absolutely necessary to accomplish completely the desired object of the negotiations. A united "humble" petition of the Proprietors of East and West Jersey was presented "to their excellencies the Lords Justices of England;" but exactly at what date cannot be ascertained. It was, however, after the death of James II, as he is referred to in the document, as the "*late*" King and was probably not earlier than 1699. This petition undoubtedly had for its main object the reappointment of Colonel Andrew Hamilton as Governor of New Jersey. Hamilton was a Scotchman; his right to the office had been very seriously questioned and he had been removed. Subsequently, advice had been taken by the Proprietors from learned lawyers, as to his eligibility, and it had been decided by them that he was legally qualified.

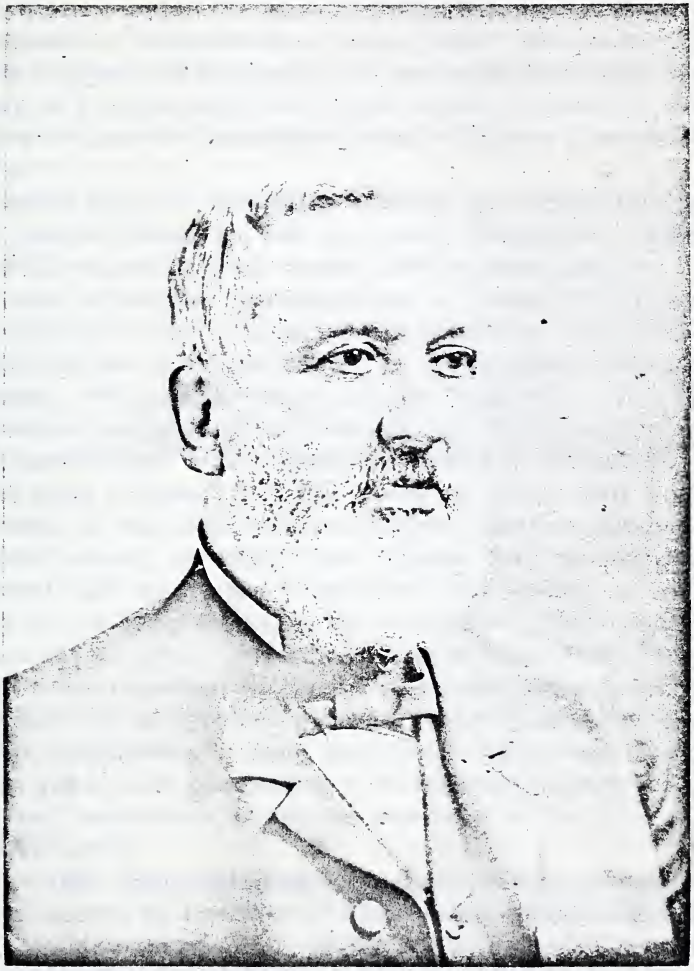
The petitioners claimed that they were entitled to the government over both the provinces and based their claim upon the several grants and conveyances alluded to in the "Memorial." In connection with this claim, they use language which shows that there had been joint action between the two provinces. They say: "Your petitioners have agreed and are ready to surrender all their right of government to his Majesty, upon such terms and conditions as are requisite for preservation of their properties and civil interests, and which they humbly hope will be allowed to them."

This petition was probably presented between the reception by the Council of the "Memorial" and their answer. There seems to have been two principal subjects of contention between the Proprietors and

the Council; one, the establishment of a port of entry at Perth Amboy; and the other, that New Jersey should be placed upon an equality with New York in all matters of representation.

Perth Amboy was settled in 1680, by Scotch immigrants, under the patronage of the Earl of Perth. Its Indian name was Ambo, by which it was long known. The early colonists called it Perth, in honor of their patron, who was one of the Proprietors of East Jersey, the two names being afterwards united. Its early advantages as an emporium of trade had been noticed by the thoughtful men of the Province and vigorous efforts were made to secure for it the position of a port of entry. The town is situated on an eminence at the mouth of the river Raritan, which is navigable for about twenty miles, and opposite Raritan Bay and the southern end of Staten Island. The bay was a safe roadstead and had sufficient water to float vessels of the largest size. The port was easier of access and nearer to the ocean than New York, and it seemed for a time as if Amboy might become her successful rival. The Proprietors, foreseeing the great advantage to be derived by the whole colony, if Amboy should be made a port of entry, were eager in pressing for the royal assent. On the 15th day of January, 1699, O. S., they made a short reply to the "Opinion and Answer" of the Lords Commissioners, in which they speak of the "*dubious answer*" returned to their proposal "concerning the establishment of a port at Perth Amboy." This answer is principally directed to an argument showing not only the propriety, but the justice, of consenting to the proposal. They close their answer with these suggestive words: "The Proprietors do further crave leave to mention, that if their desire of a port is once granted, they do not foresee any great difficulty to adjust with your lordships the other articles mentioned in their 'Memorial.'"

On the 12th of August, 1701, the Proprietors of the two provinces presented their *joint* "Memorial" directed to the *king*, which is, in many respects, a repetition of that sent to the Council by the Proprietors of East Jersey. It, however, enters more into the argument connected with the establishment of ports of entry in New Jersey. Notwithstanding their insistment of their right to ports of entry in their colony, they seem willing to forego their claim. For, after arguing upon this right and referring to a trial between Jeremiah Basse, Governor of New Jersey and the Earl of Bellomont, where the question was incidentally raised and settled by the Court of King's



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Bench, they say this: "They are notwithstanding ready and desirous in obedience to his Majesty's pleasure, to surrender all right of government there, in humble hope and confidence, that as his royal wisdom prompts him to resume the American proprietary government into his more immediate administration, so his justice and goodness will incline him to grant the Proprietors all reasonable privileges, which are necessary to preserve their civil rights and the interests of the planters, and which are not inconsistent with his Majesty's service or royal authority."

The second point of contention between the Proprietors and the Council, above referred to, was very easily disposed of, although, at the time the contention arose, it was a very serious question.

The desire which the Proprietors had to place New Jersey on an equality with New York, was certainly a proper one, as it was then the plan that the two provinces should be consolidated under the same government, with one governor and one legislature. This difficulty was, however, obviated by the retention by New Jersey of an independent government, with a legislature elected by the people.

On the 2d of October, 1701, the Board of Trade, then a most important body of men in England, in reply to certain requests made by the Lords Justices, presented their opinion, first, as to the right of government claimed by the Proprietors; and, second, as to the expediency of the King accepting the surrender. Their opinion was, that there was no right of government then existing in the Proprietors, and, that it was expedient for the Crown to assume the government of the provinces and to appoint a governor "over those provinces by his immediate commission." They also advised that proper instructions should be given to the governor so to be appointed, but that such commission and instructions should be presented to the Proprietors for their acquiescence.

Early in 1702, Anne, daughter of James II, whose right to the throne had been secured by the "Act of Succession," which limited the title to the Protestant branch of the Stuart family, became Queen of England. On the 15th day of April, of the same year, by the joint act of the Proprietors of both provinces, a full and unconditional surrender of the right of government was made by deed, signed and sealed by twenty four Proprietors of East Jersey and by thirty-two of West Jersey. This surrender cited the several grants by King Charles to his brother, the conveyances by York to Berkeley and Carteret and the

mesne conveyances to the several Proprietors, who are mentioned by name in the body of the surrender. On the 17th of April, 1702, the Queen accepted the surrender and assumed the government over the two provinces.

On the 5th day of September, 1702, the Queen appointed her cousin, Edward Hyde, Lord Viscount Cornbury, governor of the whole of New Jersey, thus consolidating the two provinces. This surrender to Queen Anne and her subsequent action in appointing Cornbury, Governor, transferred the province and all governmental authority over it, to the Crown. The "Grants and Concessions" of Berkeley and Carteret, the "Concessions and Agreements" and the "Fundamentals" of the Proprietors of West Jersey had no further validity or binding force. The Queen and her advisers were undoubtedly of the opinion that their operation ceased, and that it now belonged to the English Sovereign to make such grants to the people of the province as, in her good will and pleasure, seemed proper in accordance with the laws of England.

The colonists now became British citizens, invested with all the rights of freemen, subject to English laws. Thereafter, the government of the colony was to be administered under what was called a "*Royal Government*," through a Governor appointed by the Sovereign, with a Council approved by the Crown and a Legislature elected by the people. There was no charter granted directly to the people, as in the case of some of the other colonies; nor was there any "Bill of Rights," or Constitution expressly vesting them with certain privileges, but there were two documents emanating from the Queen which, though not directed to the people, yet, were of such a character that they might claim their protection and invoke their guardianship. These were the instructions given to Cornbury by the Queen and his commission as Governor.

The colony had now a strong government, with all the resources of Great Britain behind it to enforce laws, to punish criminals and to guaranty all their rights to the citizens. The English Parliament could pass laws which must be obeyed by the colonists. The Colonial Legislature might enact statutes, but they were ineffectual, unless approved by the Sovereign. The ordinary machinery of an organized government was in operation for the colonies; a Governor, a law making body composed of the Governor, his Council and representatives of the people, courts of justice, judges, sheriffs and constables. In their prior government, they had had well defined charters and constitutions in the "Grants and Concessions," in the "Concessions and Agreements,"

and "Fundamentals," but any force derived from these was at an end and they could claim no rights under them.

If, under the new order of things, their rights as citizens were invaded, what was their remedy? They could claim that protection to which every British subject was entitled under the common or statute law of the common country, or that which was impliedly guarantied by the "Instructions" and "Commission."

The remedy afforded by the Common, or statute Law of England was very precarious, even to a resident in Great Britain, itself. The courts of law had been too apt to disregard the rights of the people. This had been peculiarly the case under all the Stuarts, when judges and jurors had been subservient to the behests of the Crown. A better feeling had been gaining ground during the reign of William and Mary. Anne, though a Stuart, following such a liberal monarch as William, if she had dared, could not have stemmed the tide of popular sentiment which demanded that the privileges of British subjects should no longer be ignored by courts of justice, or even by the Sovereign. Besides, she was only remarkable for being controlled by such unprincipled and sharp-witted favorites as Sarah Jennings, the imperious wife of Churchill, Duke of Marlborough, who ruled her for a quarter of a century. Anne had the Stuart characteristic of dullness, exaggerated, and surrendered the reins of government almost entirely to her ministers, except when she, or they, might be overruled by her favorites.

If any colonist in New Jersey had desired to appeal to an English court for redress, he would have been obliged to go to England and to employ Counsel there, and the expense would have been so great as absolutely to have deprived him of that remedy.

The "Instructions" to Cornbury were very full and minute in almost every particular of the manner in which he should rule the people of his province, and his Commission was also very comprehensive. These instructions were singularly able and were prepared with the greatest care, by a master mind.

It was, however, questionable, to say the least, whether the colonists could claim that to be a constitution or charter intended for them and as their safeguard, which was merely a document addressed to an individual, containing directions for him as to his conduct in a certain official position. The royal governor was accountable, not to the body of citizens, but to his Sovereign. It could hardly be maintained that the colonists had any rights guarantied to them by the instructions and

commission to Cornbury; notwithstanding all this, great stress was laid by many of the colonists upon what was contained in them, and some historians in speaking of them have claimed that they were the very foundation of the liberties of the people and that they had much to do with the moulding and shaping of the future history of the colony. That they may be fully understood, such portions as are deemed important for the present purpose are quoted. They begin thus:

"Instructions for our Right Trusty and well beloved Edward, Lord Cornbury, our Captain General and Governor, in Chief in and over our Province of Nova Caesarea, or New Jersey, in America."

The names of the Councillors of the new Governor, thirteen in number, and who were gathered from different parts of the Province, were mentioned in the second clause. Two oaths were to be administered to these Councillors, one, the oath of "Supremacy:" "for the further security of his Majesty's person, and the succession of the crown in the Protestant line and for extinguishing the hope of the pretended Prince of Wales, and all other pretenders and their open and secret abettors, and for declaring the association to be determined." The other was the "Test" oath: "for preventing dangers which may happen from Popish recusants."

The members of the Governor's Council were not to be diminished or increased and were to be selected equally from the two provinces.

By the 14th clause, "in order to the better consolidating and incorporating the two divisions of East and West New Jersey, into and under one government" the Governor was directed to "call together one General Assembly for the enacting of laws for the joint and mutual good of the whole." The first Assembly was to sit at Perth Amboy; the next, at Burlington and all future General Assemblies were to "*set*" at one or the other of those places alternately, or (in cases of extraordinary necessity) "according as you with the advice of our foresaid Council, shall think fit to appoint them."

By the 15th clause, it was directed that the General Assembly so to be called, "do consist of four and twenty representatives; who are to be chosen in the manner following, viz. Two by the inhabitants householders of the city or town of Perth Amboy, in East New Jersey, two by the inhabitants householders of the city and town of Burlington in West New Jersey; ten by the freeholders of East New Jersey, and ten by the freeholders of West New Jersey; and that no person shall be capable of being elected a representative by the freeholders of either

division, or afterwards of sitting in General Assembly's, who shall not have one thousand acres of land of an estate of freehold, in his own right, within the division for which he shall be chosen; and that no freeholder shall be capable of voting in the election of such representative, who shall not have one hundred acres of land of an estate of freehold in his own right, within the division for which he shall so vote: And that this number of representatives shall not be enlarged or diminished, or the manner of electing them altered, otherwise than by an act or acts of the General Assembly there, and confirmed by the approbation off us, our heirs and successors."

By the 16th clause, it is directed that a collection should be made "of all the laws, orders, rules, or such as have hitherto served or been reputed as laws amongst the inhabitants of our said Province of Nova Caesaria, or New Jersey, and together with our aforesaid Council and Assembly, you are to revise, correct, and amend the same, as may be necessary; and accordingly to enact such and so many of them, as by you with the advice of our said Council and Assembly, shall be judged proper and conducive to our service, and the welfare of our said Province, that they may be transmitted unto us, in authentick form, for our approbation or disallowance."

By the 17th clause, the Governor was directed to observe that "in the passing of the said laws and of all other laws, the stile enacting the same, be by the Governor, Council and Assembly, and no other."

By the 18th clause, special direction was given to Cornbury, "to observe in the passing of all laws, that whatever may be requisite upon each different matter, be accordingly provided for by a different law, without intermixing in one and the same act, such things as had no proper relation to each other; and you are especially to take care that no clause or clauses be inserted in, or annexed to any act which shall be foreign to what the title of such respective act imports." It would perhaps have been well for the legislation of modern times, if the directions of this clause could have been strictly observed from that period until the present.

All laws which should at any time thereafter be enacted within the province, were directed to be sent to England for approval.

The Governor was directed by several clauses in the instructions, to provide for the levying of money or imposing fines and penalties; to raise money necessary for the expenses of the government, in which provision was to be particularly made for a competent salary for the

Governor and his successors; for the levying of customs, duties and other impositions "upon all commodities imported or exported in or out of our said Province of Nova Caesaria, or New Jersey, as may equal the charge that is or shall be laid upon the like commodities in our Province of New York."

The Queen or her advisers seemed desirous to keep Lord Cornbury within the limits of the provinces of New York and New Jersey, and so they provided that he should receive one-half of his salary while absent. It was also provided that he should under no pretense whatever leave the province "to come to Europe from your government, without having first obtained leave for so doing under our signet and sign manual, or by our order and our privy Council."

The 36th clause is important and it is therefore quoted entire: "Our will and pleasure is, that for the better quieting the minds of our good subjects, inhabitants of our said Province, and for settling the properties and possessions of all persons concerned therein, either as general Proprietors of the said under the first original grant of the said Province, made by the late King Charles the Second, to the late Duke of York, or as particular purchasers of any parcels of land from the said general Proprietors, you shall propose to the general Assembly of our said Province, the passing of such act or acts, whereby the right and property of the said General Proprietors, to the soil of our said Province, may be confirmed to them, according to their respective rights and titles; together with all such quit rents as have been reserved, or are or shall become due to the said general Proprietors, from the inhabitants of our said Province; and all such priviledges as are exprest in the conveyances made by the said Duke of York, excepting only the right of government, which remain in us: And you are further to take care, that by the said act or acts so to be passed, the particular titles and estates of all the inhabitants of that Province, and other purchasers claiming under the said general Proprietors be confirmed and settled as of right does appertain, under such obligations as shall tend to the best and speediest improvement or cultivation of the same. *Provided always*, that you do not consent to any act or acts, to lay any tax upon lands that lye unprofitable."

By the 37th clause, the Governor was directed not to permit any purchase of land from the Indians.

The 44th clause reveals the fact that piracy was frequent, and Cornbury was instructed to use means to bring pirates to trial.

The 45th clause is short, but very emphatic and important. "You shall not erect any court or office of judicature, not before erected or established, without our especial order."

By the 46th clause, it was directed that with all convenient speed, "a particular account of all establishments of jurisdictions, courts, offices, and officers, powers, authorities, fees and privileges which shall be granted or settled within the said Province, by virtue, and pursuance of our commission and instructions to you our Captain General and Governor, in Chief of the same, to the end you may receive our further directions therein."

By the 49th clause, it was directed "that no man's life, member, freehold, or goods be taken away or harmed in our said Province, otherwise than by established and known laws, not repugnant to, but as much as may be agreeable to the laws of England."

The 51st clause was this: "You are to permit a liberty of conscience to all persons (except papists) so they may be contented with a quiet and peaceable enjoyment of the same, not giving offence or scandal to the government."

By the 52d clause, "the people called Quakers," instead of taking an oath, when summoned as witnesses, were permitted to affirm.

By one of the provisions of the 53d clause, Cornbury was directed to have a census of the inhabitants "men, women and children, as well masters as servants free and unfree, and of the slaves in our said Province, as also a yearly account of the increase or decrease of them, and how many of them are fit to bear arms in the militia of our said Province." Statistics of birth, baptisms and burials were to be kept and sent to England.

Particular care was enjoined upon the Governor "that God Almighty be devoutly and duly served throughout your government, the book of common prayer as by law established, read each Sunday and holy day, and the blessed sacrament administered according to the rights of the church of England."

Several sections of the 53d clause have special reference to the subject of religion, but they all relate to the church of England, and strongly favor that denomination. Almost immediately following them, come these remarkable provisions: "You are to give all due encouragement and invitation to merchants and others, who shall bring trade into our said Province, or any way contribute to the advantage thereof, and in particular, the Royal *African* Company of England." "And where-

as we are willing to recommend unto the said company, that the said Province may have a constant and sufficient supply of merchantable negroes, at moderate rates, in money or commodities, so you are to take especial care, that payment be duly made, and within a competent time according to their agreements."

"And you are to take care that there be no trading from our said Province to any place in Africa, within the charter of the Royal African Company, otherwise than prescribed by an act of Parliament, entitled, An act to settle the trade to Africa."

"And you are yearly to give unto us, and to our commissioners for trade and plantations, an account of what number of negroes, our said Province is supplyed with, and at what rates."

There was a special reason why the Queen should direct her cousin, the Governor, to foster this African Company whose principal trade was in slaves. Several members of the royal family were interested as stockholders in that company and it was also shrewdly suspected that the Queen, herself, had a pecuniary interest in it. It ought, however, in justice to her Majesty, be said that, in her instructions, she directed the Governor to provide for the spiritual advantage of negroes and Indians, to facilitate and encourage their conversion to the Christian religion and, also, to care for their physical condition.

The Queen further directed that appeals be made, "in cases of error, in the courts in our said Province of Nova Caesaria, or New Jersey, unto you and the Council there; and in your absence from our said Province, to our commander in chief for the time being, and our said Council, in civil causes." No member of the Council, however, who had been a judge of the court from which the appeal had been taken could vote at the hearing of such appeal; nor, could the case be carried up, unless the sum in dispute exceeded one hundred pounds sterling and security must be given by the appellant to pay further costs, if the first judgment were affirmed. An appeal might be taken from the Governor and Council to the privy Council in England provided the sum in dispute exceeded two hundred pounds sterling. But, the appeal in such cases must be made within fourteen days from the time of the decision by the Governor and Council, and the appellant was obliged to enter into bond not only to pay costs, but the condemnation money, in case the first judgment be affirmed, and the second appeal did not stay execution.

Appeals might also be made to the Queen in Council from fines im-



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posed for misdemeanors, provided the fine amounted to two hundred pounds sterling and the appellant enter into bond to prosecute his appeal, pay costs and answer the condemnation, if the fines be confirmed.

The Governor was to propose an act in the Assembly for a bankrupt law.

The Queen provided for the liberty of the press as follows: "Forasmuch as great inconveniences may arise with the liberty of printing in our said Province, you are to provide by all necessary orders, that no person keep any press for printing, nor that any book, pamphlet or other matters whatsoever be printed without your especial leave and license first obtained."

These seem to be the important matters contained in the instructions which affect the present purpose and relate more particularly to the rights of the citizens at large. There were other and more minute provisions which would not aid in this discussion. A comparison between this document and the "Grants and Concessions" of Berkeley and Carteret, and the "Concessions and Agreements" of the Proprietors of West Jersey reveal very important differences. In the "Instructions," great prominence is given to two main principles: First, that the Crown was the fountain of all justice and that from it emanated all right to govern; and Second, that the interests of the colonists were of minor importance. The "Grants and Concessions" and the "Concessions and Agreements" were both directed to the people and acknowledged that all authority must come from them and the fullest scope was given to the enjoyment of personal liberty and individual right.

Lord Cornbury's commission granted by the Queen, no more definitely guarantied the rights of the citizens than did the "Instructions." It is true, that by this commission Cornbury might, with the advice and consent of his Council, summon a Legislature composed of representatives elected by the people, and that Legislature might pass laws, but those laws would be of no effect, unless approved by the Sovereign and "such and so many of them as shall be disallowed and not approved shall from thenceforth cease, determine, and become utterly void and of none effect." Not only that, but the Governor had a power of veto, and also, the power to "adjourn, prorogue and dissolve all general Assemblies."

The Governor with the advice and consent of the Council had the

authority to constitute such and so many courts within the province as they might think necessary and also, to appoint all judges and officers in these courts.

Lord Cornbury had no possible fitness for the office of governor, except such as might be derived from his consanguinity to the Queen. He was as graceless a scamp as was ever intrusted with authority in the colony, or as ever dishonored noble ancestry. He was effeminate, grasping and tyrannical. He delighted to array himself in woman's apparel and parade the streets of New York. A spendthrift, he involved himself in enormous debts, and when ousted from the governorship, was thrown into prison by his clamorous creditors until, fortunately for him, the death of his father relieved him from the consequences of his fraud and elevated him to the peerage of England upon which he reflected no honor. He was the grandson of the celebrated Edward Hyde, the Earl of Clarendon and Lord Chancellor of England. In his early life, Clarendon was a briefless barrister. He made the acquaintance of a wealthy brewer, who by marriage had elevated a Welsh scullion to the head of his household. Before his elevation to high office in England, Clarendon married the Welsh scullion, who was then the widow of the brewer. Anne, a daughter of this marriage, became the wife of James, Duke of York and the ancestress of Queen Victoria. Cornbury was the grandson of the Earl of Clarendon and the brewer's widow, and in this way became the cousin of Queen Anne.

Cornbury remained governor of both New York and New Jersey, until 1708, when, after repeated complaints made to the Queen, by the colonists, he was removed.

CHAPTER VIII.

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The formative period in the history of New Jersey ceased with the surrender to Queen Anne and the Colony then entered on a new phase of its existence. Its government was changed in a most material manner. The rule of the Proprietors had been forceless and inefficient.

Only one governor had been appointed for the whole province prior to its division and he had not been acceptable to the people. Sometimes he had been so repulsive that the colonists had actually refused to recognize him and had openly rebelled against him, and his principals had no power behind them to enforce his authority.

Philip Carteret, appointed governor over the whole of New Jersey in 1665, ruled until 1682; in the latter part of which year he resigned his authority into the hands of Robert Barclay, his successor. Carteret survived this event a little less than two months and died in December, 1682. His term of office was an exceedingly stormy one, almost from its beginning, certainly to its close. In October, 1681, he met with the last legislature which he attended as governor. A violent dispute arose between him and his Council and the Legislature relative to the right of the Proprietors to change the terms of the "*Grants and Concessions.*" The dispute became so acrimonious that the Governor, for

the first time in the history of New Jersey, dissolved the Legislature. The members were vehement in their protests against this action, claiming that it was inconsistent with his instructions and with his commission and that it worked a deprivation of their rights. Before the next Legislature convened he made way for Barclay, as governor of East Jersey only, however, for by this time West Jersey had an independent Governor of its own.

Barclay was of distinguished descent and could trace his lineage back through fifteen generations to a Norman nobleman. He was a Quaker, a scholar, a philosopher and an author of several books, the most celebrated of which was his "Apology." He acquired a part of his education at Scot's College, an institution of learning in Paris, of which his uncle was principal. His uncle was a Roman Catholic and offered to make his young nephew his heir, if he would become a communicant of that church, to the forms and ceremonies of which he had for some time been accustomed. He was then only sixteen, but he refused to comply with the requirements of his uncle and, in accordance with the wishes of his mother, expressed on her dying bed, soon returned to Scotland. His father and he became Quakers, from motives which were little appreciated at that time, but which would now be highly respected. After this event, Barclay, although frequently a sufferer for his adherence to his new faith, devoted himself with all his energy and perseverance, with his heart and intellect, his fortune and influence, to the furtherance of the interests of this denomination of Christians. He was selected by the Proprietors because they supposed that he would not only influence the Quakers to settle in New Jersey, but that he would be a most efficient ruler of the province. In addition to this, he was one of the Proprietors of the colony and largely interested in its welfare, thus having every inducement to administer its affairs in the best possible manner. He was appointed for life, and was not required to visit the colony, but was permitted to rule it by proxy. He selected Thomas Rudyard to act as his deputy.

Mr. Rudyard was also one of the Proprietors, was a lawyer of eminence and resided in London. He had been of Counsel with the Defendants, William Penn and William Mead, who were indicted in 1670 for preaching "at an unlawful, seditious, and riotous assembly," in violation of the "*conventicle act.*" By this law, the Quakers were prohibited from assembling in their "meeting houses," but Penn and Mead, in defiance of the statute, preached to an assemblage which met

in front of their place of worship, for which they were indicted. Rudyard had taken a very active part in the trial of this indictment and had shown marked ability. This led to his being employed by the Proprietors of East Jersey and to his becoming interested in the enterprise. He had been prominent in all the preliminary measures for the advancement of the province, had largely aided in securing immigration thither, was admirably equipped for the position of Deputy Governor, and after his appointment, embarked for the scene of his future labors with an earnest determination to do his whole duty. He had two daughters, who went with him, and became conspicuous in the colony; one of them, at least, in its religious affairs, and both materially aided their father in his arduous labors. Both of these ladies married gentlemen of position, one of them residing in New York and the other in New Jersey; his daughter Margaret impressed herself so much, by her good deeds, upon the congregation of Episcopalians worshipping at Perth Amboy, that, to this day, she is remembered and recognized as one of its substantial benefactors. A tablet recording her virtues and sacred to her memory was inserted within the walls of the old church edifice.

Mr. Rudyard only held the office for about a year and was succeeded by Gawen Lawrie.

Mr. Lawrie was also one of the twenty-four Proprietors, owners of East Jersey, and was a merchant of London. He was by no means possessed of the ability of Rudyard, but after he became deputy, he took a very prominent place in the province. He was one of the assignees of Edward Billinge, who had conveyed his interest in West Jersey to assignees,—William Penn, Nicholas Lucas and Gawen Lawrie,—for the benefit of his creditors, of whom, Lawrie was one. Very soon after his appointment, he came with his wife and family to New Jersey and took up his residence at Elizabethtown, notwithstanding the Proprietors had requested him to remove to Perth Amboy. He took a deep interest in this last named place, and though he refused to remove thither, may be considered one of its founders. Elizabethtown by this time had become a place of some size, while Perth Amboy was just beginning its existence. It is not, therefore, astonishing that Lawrie preferred to remain at Elizabethtown, where he could secure for himself and family more of the comforts of civilized life than he could possibly hope for in that new settlement. Very little is known about this man, although his prominence in the colony and his administration of

affairs tended greatly to its growth. He was appointed in July, 1683, but did not reach his province until the early part of the succeeding year. He is recorded as having brought eight persons with him; whether they were members of his family or not, is not now ascertainable. He had some children among whom was a son James, mentioned in the records of the colony. He was superseded in 1686 by Lord Neill Campbell. Lawrie and Rudyard were both probably removed for the same cause, but this is not absolutely certain. They had each selected desirable plots of ground for themselves, contrary to a rule made by the Proprietors, which provided that if there were an "extraordinary choice plot of land so esteemed by the Surveyor General, or any two of the Commissioners, either for the excellency of the soil or advantage of situation, it shall be reserved for the general interest of all the Proprietors and cast in equal division."

It was charged that these two Deputy Governors had each selected a desirable plot for themselves at a place called Changoroza.

In 1685, the Governor and Proprietors of East Jersey issued instructions to the Deputy Governor and Commissioners relative to the "setting out of lands, and other affairs, relating thereto." In the seventh clause of these instructions particular reference is made to this action of Lawrie and Rudyard in terms of great disapprobation.

Lawrie became a member of the Governor's Council after his dismissal, and retained a permanent position in the colony.

Lord Neill Campbell was also one of the Proprietors, having purchased from Lord Tarbet the one undivided ninety-sixth part of East Jersey. He was a near relative of the Earl of Argyle who was beheaded for high treason, in 1685. Smith, in his history of New Jersey, in a foot note, says that he was an uncle, and also, that he was appointed Governor. Mr. Willian A. Whitehead in his admirable monogram on East Jersey, asserts that he was a brother of the Earl and that he was made Deputy Governor in the place of Lawrie. Mr. Whitehead is undoubtedly correct.

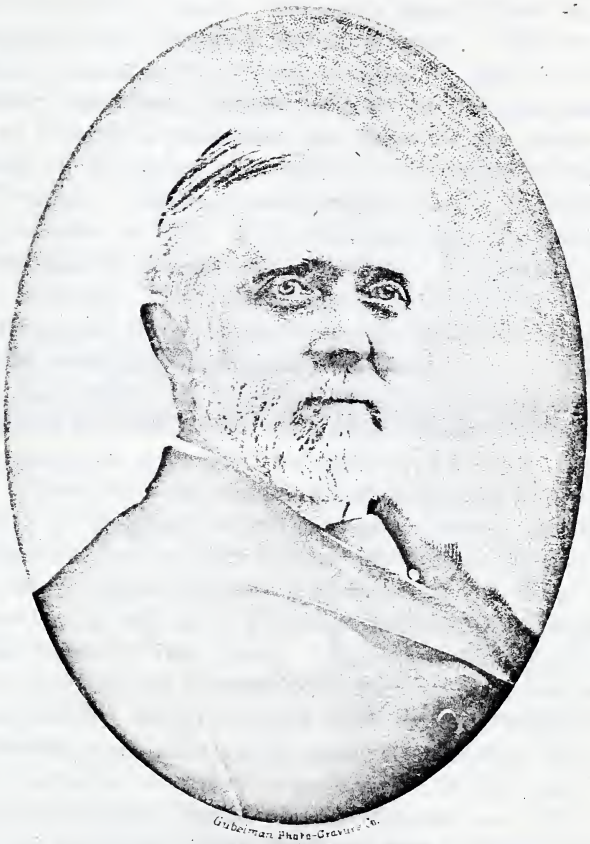
Robert Barclay held the office of Governor until 1685, so says Smith, but he must be in error, for later than 1685, in 1687, he confirmed the appointment of Andrew Hamilton, as Deputy. Barclay died in 1690 and in all probability was Governor up to the time of his death, and then the Proprietors appointed John Tatham to succeed him. This was on October 3, 1690, and in 1691, Colonel Joseph Dudley was selected to succeed Tatham, but the people "scrupled to obey"

either; why, cannot be ascertained. The colonists loudly complained that during this period the Proprietors had left them "without any government whatever." It would seem that this charge was unfounded, as the fault was theirs, in not receiving the two appointees, Tatham and Dudley.

The ruinous attempt made by Argyle, in 1685, to raise the standard of rebellion, had involved Lord Neill and many of the clan Campbell of which Argyle was the hereditary head, in the disastrous result of that rebellion and Campbell was obliged to seek a place of refuge, and so he escaped to New Jersey. He succeeded in securing the immigration to New Jersey, at one time, of fifty-six persons, most, if not all of whom, were probably connected by tie of clanship with himself and the Earl. Lord Campbell's connection with the province was very short and his control over its affairs was limited to the approval of a few minor acts passed by the legislature. He very soon returned to Scotland, as there had been a change in the policy of the English king towards those who had been engaged in Argyle's enterprise. Two of Lord Neill's sons had preceded him to New Jersey, one bringing his family with him. One of these, Archibald, had been sentenced to be beheaded for complicity in his uncle's treason, but had escaped. There is no record of the return to Scotland of either of these gentlemen, and they probably became the ancestors of the numerous family of Campbells still found in New York and New Jersey. A curious incident is connected with John Campbell, one of Lord Neill's sons: A man named Moneybaird made a conveyance to him of his lands at Perth Amboy, dated December 16, 1684, now on record, "on consideration of the said Campbell's sending a footman in velvet to wait on Moneybaird during the time of parliament in New Jersey, and holding his stirrup."

Lord Neill was appointed for two years on the 4th day of June, 1686; he went to his province in October of the same year and returned to Great Britain sometime in the early spring of 1687. In December, 1686, he appointed Andrew Hamilton his substitute, and on August 18, 1687, Barclay confirmed this appointment. The influence of Lord Campbell was scarcely felt in the province, except in one direction—that of immigration. Besides the fifty-six persons who came with him he induced many others to follow. Most, if not all of these, were Scotch, and they formed the very best element in the province.

Hamilton had been a merchant in Edinburgh, and came with his family to New Jersey at about the time of the arrival of Campbell.



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Edward H. Scudder

He was one of the best governors of East Jersey and acted with so much propriety and prudence as to commend himself to the citizens. He was careful in the preservation of the rights of the Proprietors, but tempered this care with so much wisdom as not to embroil himself, or his principals, with the colonists. He was a man of great intelligence, of sound judgment and excellent common sense. His first meeting with an assembly was at Perth Amboy on May 14, 1688, but the meeting was of minor importance, except perhaps, in this particular: A tax was imposed of a penny a pound on the value of all estates and ten pence per head on all males over sixteen, to be used by England, in her war with France. This tax, when raised, was to be subject to the order of the governor of New York, who had been authorized to call on the other colonies in America for assistance. It is probable that the tax was never enforced. The inhabitants of New Jersey were not inclined to contribute anything whatever for the relief of a colony which had so often and materially interfered with them.

This was in May, 1688. In August following, Sir Edmond Andross, whose persecutions of New Jersey were only limited by his power, invaded the province and attempted to seize, or did seize, the reins of government. There was some excuse for this conduct of Andross, for James, now king of England, with his usual duplicity, had seemed to approve of his course, in his prior treatment of New Jersey, knighted him and afterwards appointed him governor over all New England. There was, however, at this time, a strange and marked change of conduct in Andross towards New Jersey. Hamilton and his subordinates were continued in office, but whether with their original powers or not, cannot be ascertained. Andross acted with singular wisdom, which, under the circumstances, and taking into consideration his arrogant and tyrannical character, was very remarkable. In this year occurred the revolution in England, which placed William and Mary on the throne, and in the succeeding year, Andross was arrested by the people of New England and all his power in the colonies was at an end.

A strange question was raised as to the legality of Hamilton's commission, on the simple ground that he was a Scotchman and the Proprietors felt constrained, much against their will, to remove him. This question arose upon an act of Parliament which provided that no other than a natural born subject of England could serve in any office of trust or profit. The word England, in the act, was construed, before his removal, to apply to citizens born within England proper and to ex-

clude any one born in Scotland. A more liberal construction was given to the act afterward and Hamilton was restored. Upon his being removed, on the 12th of October, 1697, Jeremiah Basse was appointed Deputy Governor. At this time, the right of the Proprietors to exercise any sovereignty, involving, of course, the appointment of a governor, was more and more disputed, and that dispute was not confined to the people, but had been carried into the courts. A doubt was expressed as to the legality of Basse's appointment, because it had not been confirmed by the king. There was also objection made to Basse, personally, and it is altogether probable that the legal objection was induced by his personal unpopularity. Basse had never before held any position in the province; he was not well nor favorably known and some, even, of the Proprietors would not acknowledge him as the legally appointed Deputy; many of the inhabitants refused obedience to him. He was neither wise nor prudent in his treatment of the people nor of the legislature and made himself obnoxious. The disorder in the province became so great, in consequence of this opposition, that he finally left the colony and returned to England. This was in May or June, 1699.

Andrew Bowne, a member of his Council, was left by Basse as his successor. Bowne was commissioned on the 29th of May, 1699, and entered upon the execution of his duties on the succeeding day. He was almost as unpopular as Basse, himself, but, as he was entitled, by virtue of his position as President of the Council, to the office of deputy governor, his right was not questioned. Although he, himself, was not respected, in consequence of his prior conduct and of his intimate relations with Basse, he was permitted to govern much more quietly than his predecessor. Tumult ceased; there was an end of open resistance; but this made little change in the real feelings of the colonists, or in the affairs of the province.

By this time a new construction had been given to the act, under the operation of which the Proprietors had removed Hamilton, who, on the arrival of Basse in England, had been reappointed governor. This was in 1699. The real opinion expressed by the court on the construction of this act was not officially announced until May, 1700, but, it was well known at the time of the reappointment of Hamilton what that opinion was. Hamilton had been acceptable to the citizens, as governor, and his administration had been wise and just; but there was a deep rooted jealousy of the government of the Proprietors, so

strong that even with Hamilton's past popularity, he did not escape criticism or objection to the legality of his appointment. A most critical state of affairs now arose in the province, and the question was at once mooted as to what had better be done. If submission be made to Hamilton, with all these objections against his authority and that of the Proprietors, it might be argued that the colonists had waived any right to object to the existing government. If, on the other hand, they rose in rebellion and refused obedience, confusion and anarchy would be the result, the interests of the colony would be seriously endangered and its future prospects blasted. At this time, however, the proceedings on the quo warranto were in progress in the English courts and the result of those proceedings would determine the whole matter. But, better than that, a perfect solution of the whole problem, a settlement of all dispute, would be effected by the course now contemplated by the Proprietors of making a surrender of all rights of government to the English crown. That was done, and the whole matter amicably and satisfactorily arranged.

Andrew Hamilton and Jeremiah Basse had both been governors of the two provinces; Hamilton from the time of his reappointment until the surrender.

The division of New Jersey into East and West Jersey took place in 1676, but there had been no independent governor of West Jersey until 1681, when Edward Billinge was appointed to that office and Samuel Jennings became deputy. Under the "Concessions and Agreements," the Assembly claimed the right to appoint the deputy governor, but there was no authority for this claim. In 1682, the Assembly, fearing that Billinge would remove Jennings, who had been so acceptable to the colonists, reappointed him deputy. He held this position until 1684, when Thomas Ollive, who proved a most excellent officer, was governor until 1685. John Skein was appointed deputy in 1685, and held the office for two years. He was succeeded by William Welsh, who was continued for one year.

In 1687, Daniel Coxe became governor and continued in office until 1692, when Andrew Hamilton was reinstated over both East and West Jersey. Coxe was a physician, one of the largest landholders in New Jersey, and also largely interested in South Carolina. He had rather an exaggerated idea of the importance of his position as governor and, on September 5, 1687, just after his appointment, addressed a long letter to the Proprietors, giving his opinion of the manner in which the

duties of his office should be performed. His style was dictatorial and egotistical; he had great activity of mind, but seemed to be of a turbulent disposition, and was the most unpopular member of Cornbury's Council. The party in the colony which supported Cornbury, in his quarrels with the people, regained power in 1716, had a majority in the Legislature and elected Dr. Coxe, Speaker. He became involved in a controversy with Robert Hunter, then Governor, which resulted in his being expelled from the Assembly on the 21st of May, of the same year. In an address to Hunter, the Legislature referred to Coxe in these contemptuous terms: "The gentleman, our late Speaker, has added this one instance of folly to his past demeanor to convince us and all the world that in all stations, whether of a Counsellor, a private man or a representative his study has been to disturb the quiet and tranquillity of this province and act in contempt of laws and government." His son, who bore the same name, became a distinguished lawyer and one of the Associate Justices of the Supreme Court of New Jersey. Justice Coxe was really the author of the plan of confederation between the colonies which, fifty years after he promulgated it, was actually adopted in a slightly varied form. He proposed his plan in 1722 and wrote a book with a very verbose title, in which he elaborated it at great length. Benjamin Franklin is credited with the celebrated "Albany plan of union," but it was very similar to that of Justice Coxe and seems to be almost an exact copy.

Cornbury who was appointed governor, not only of New Jersey, but also of New York, arrived in New Jersey in the month of August, 1703. He published his commission at Amboy and Burlington, and then went to New York. He remained there but a short time, however, came back to New Jersey and convened the legislature, which met on the 10th of November of the same year, at Perth Amboy. This legislature consisted of twenty-three members, nine of whom represented the eastern division; ten, the western; two came from Amboy and two from Burlington. Thomas Gardiner, from Burlington, was unanimously elected Speaker and upon being presented to the governor, was accepted by him. Notwithstanding the apparent readiness of the colonists to accept the change of government, their representatives in this legislature assembled, were not willing to proceed to any business without having some of their rights recognized by Cornbury. Accordingly, they demanded from him certain privileges. This demand was made in accordance with an ancient custom which had obtained in

the English Parliament. It is more than probable, however, that the legislators meant something more than a mere compliance with an ancient custom. The ardent desire of liberty which had manifested itself all through the existence of the colony and which was so characteristic, here strongly manifested itself.

What they demanded was this: "That the members with their servants may be free from arrests, or molestation during the session."

"That they have free access to your Excellency's person, when occasion requires."

"That they may have liberty of speech, and a favorable construction of all debates that may arise among them."

"That if any misunderstanding shall happen to arise between the council and this house, that in such a case a committee of the council may be appointed to confer with a committee of this house for adjusting and reconciling all such differences."

The Governor granted the first three of these demands, but refused the last, upon the ground that it was unusual, and an entry of this action was made in the books of the Council. The Governor opened the meeting of the legislature with a speech in which he referred to the surrender, the union of the two provinces and to his appointment as governor. He also referred to his instructions from the Queen and made some recommendations to the Assembly, as to the manner in which they should conduct themselves, the titles they should use for their acts, and enjoined upon them to finish their business with all convenient speed. This speech reflected no great credit upon Cornbury, either in its style, or in the intellectual ability displayed in it. A short reply was made by the legislature which is only remarkable for one feature, their manifestation of relief from the government of the Proprietors. They said: "We are well assured the proprietors, by their surrender of their rights to the government of this province, have put us in circumstances much better than we were in under their administration, they not being able to protect us from the villainies of wicked men." From a memorandum in the Journal it is learned that all the members of the house agreed to the subject matter of the address, but that several of them, who were Quakers, dissented from the manner in which it was expressed.

The legislature continued in session until the 13th of December, being a little more than a month from the beginning of the term. They passed several laws, but only one received the approval of the governor. That was a law with reference to the purchase of land from the

Indians. In the instructions to Cornbury, particular reference was made to such a statute and he was instructed to have it introduced into the Assembly and passed. On the 12th of November, the subject was referred to a special committee to "prepare and bring in a bill prohibiting and debarring all purchases of land from ye Indians without ye Prop'rs consent." The committee reported on the 23d of November; the bill was then read for the first time; the second time on the 24th of November, when some amendments were made and the bill was postponed until the 25th; then, it was read a third time and passed. A committee was appointed to carry the bill, as passed, to the Council and ask its concurrence. On the 10th of December the Council returned the bill with some amendments, to which they desired the assent of the house. On the next day the assembly considered the amendments presented by the Council, and consented thereto, but added another amendment of its own. The bill thus amended was sent by another committee to the Council and its concurrence again asked, which was given on the next day, and the bill then received the formal approval of the governor, thus becoming a law.

It will be seen by this statement that all the formalities used in the legislation of modern times, in the passage of statutes, were here observed, in this initial Assembly, under the royal government. This record is made in the Journal of the proceedings: "Die Lunae A. M. 13 X'bris 1,703." "A message from his Excell'y by Mr. Walker,—Mr. Speaker, His Excell'cy Comands this House to attend him in Council imediately."

"Accordingly Mr. Speaker with ye House went to Attend His Excell'cy in Council, where his Excell'cy was pleased to pass & Sign a Bill Entituled a Bill for Regulating ye purchasing of Land from ye Indians."

And so this act became a law, but it stands alone on the statute Book, the only one passed at this first legislature after the surrender to Queen Anne. Other statutes were introduced, some of which were passed by the House. One or two of these received the assent of the Council, but the Governor's approval was withheld. These are the titles of the bills introduced:

"A bill to regulate the election of members to sit in ye General Assembly."

"A bill to confirm and secure ye proprietors in their right to the soil of this province with the Quit rent according to ye conveyances made to the Duke of York."

"A Bill to settle and determine ye 2 salaries or fees of those who are or shall be elected to serve as members in General Assembly."

"A bill for enforcing ye payment of former taxes in ye Western Division of Nova Caesarea."

"A Bill for regulating and ascertaining ye assize of Cask, Weights, and Measures."

"A Bill for raising one thousand pounds to be given to her Majesty for the defraying ye necessary charge of this government and supporting ye dignity of it and also for raising ye sum of three hundred pounds for paying ye representatives fees and other incidental charges of ye House."

"A Bill for confirming ye former proceeding of Courts of judicature within this province."

Although during the comparatively long session of the legislature, so few acts were passed, yet, it was by no means an idle body. On the second day of the session five voters of the eastern division presented a petition complaining that five representatives from that division had been illegally elected. Charges were made in the petition that Thomas Gordon, High Sheriff of the County of Middlesex, then a member of the Assembly, had been guilty of malfeasance in his office, in connection with the election. Several days were devoted to the hearing of this petition and of Sheriff Gordon's defence. The decision of the legislature was in favor of the sitting members.

Another question was raised with reference to the right of Richard Hartshorn to act as a representative, which also received the consideration of the Assembly. The decision was against Mr. Hartshorn's right and he was dismissed.

The session seems to have come to a rather abrupt end. On the 13th of December, a proclamation of the Queen dated the 20th of April, 1703, was read, in which she directed that, as there was no provision made for the support of the Governor or Lieutenant Governor, the Assembly immediately after the receipt of the proclamation should settle a constant and fixed allowance for them suitable to their respective characters and dignity and that the same be done without any limitation of time and that no gift should be made to either of those officers by the Assembly.

Immediately after reading this proclamation, the Governor made a speech to the Council and Assembly, in which he stated that, as the year was so far advanced, although he was anxious that the bills that

were before them should have been passed, yet, as he desired that the members should give their full attention to the several bills and "imploy your Thoughts seriously to find out Ye most effectual ways to Attain those Desirable Ends," he adjourned the session until the 18th of May next succeeding.

An elaborate daily journal was kept of the votes and proceedings of the House of Representatives, as the Assembly was sometimes called, from the first day of its session until its close. It does not appear anywhere in its pages whether the acts which the Assembly did pass, or even those which were concurred in by the Council, except the one relating to buying land from the Indians, were ever presented to the Governor, for his approval. The usual custom was, after a bill had passed both Assembly and Council, for the Governor to send a messenger to the House and "comand" the attendance of its members; then for the Speaker and Representatives to repair to the Council Chamber where the Governor sat, and receive from him, in person, a notice of his approval or disapproval of the bill in question.

It is evident from all the proceedings and from the peremptory manner of Cornbury in his speeches to the legislature that he fully intended to control all legislation, even though he had the power of veto, which was final.

The legislature was prorogued until May 18, 1704, but it did not meet then. It convened for its second session on the first day of September, 1704,[1] at Burlington, according "to his Excell'cys Adjt.", and adjourned on that day, at the request of the Governor, until the succeeding Monday, when the Governor "Comanded their attendance imediately." On their appearance before him, Cornbury made a speech containing some very excellent recommendations and suggesting the passage of several bills. Amongst other recommendations made by him was the following: "I intreat you to lay aside all animosities, w'ch may have been occasioned by former misunderstandings, by this means you will Easily finish the Bills I have proposed to you, and such others as you may (see?) fit to Offer to me, for ye Service of ye Queen and ye Good of ye Countrey, w'ch I am sure ought to be Inseparable."

The legislature continued in session until the 28th of September,

[1] Smith says the meeting was on the 7th of September and Gordon & Mulford both follow him in the error. The Journal of the "House of Representatives" kept at the time, fixes the initial day of this second session on the 1st day of September, 1704, and the fact that it closed on the 28th day of the same month.



Engd by E. Williams, 5 Bro. Lit. St.

J. D. Beck

when it was dissolved by the Governor. His address to the members at that time contained several sharp rebukes which were entirely undeserved. The House met from day to day, sometimes as early as at eight o'clock in the morning, continuing its session until after dark, as appears by an order recorded in the journal, that candles should be brought in, and there is every evidence from the journal that the members were industriously engaged in the performance of their duties. It must be said, however, that there was great embarrassment in their action relative to one matter to which the Governor directed the attention of the House, and that was the law which would settle, if passed, the rights of the Proprietors to the quit-rent they demanded. It was undoubtedly right that the Proprietors should be assured of the payment of this rent, but it had been a bone of contention, especially in East Jersey, from 1670. If the legislature had passed a law requiring the payment to be made, it would have aroused the anger of the great body of the colonists and led to very serious difficulty. It is very doubtful whether Cornbury really desired this law to be passed. He had a greater grievance. His creditors were clamorous, for he was irretrievably in debt, and hoped to extricate himself by the salary which he expected to receive as Governor of New Jersey. He demanded £2,000 to be paid to him yearly, for an indefinite period. The demand was extortionate; the province was unable, at that time, to raise so large a sum; the legislature, going as far as they dared, offered to raise £1,300, but this did not satisfy Cornbury's cupidity, and their refusal to raise the sum he required was the real reason of his dissolution of the House. His speech made to them on the 28th of September, shows his great dissatisfaction and exactly upon what point he was dissatisfied. In the beginning of his speech, he says this: "On the 4th of this Month I acquainted You with such things as I thought necessary for ye Service of her Most Sacred Ma'ty, ye Queen, & ye good of this Province, to be past into Laws this Sessions, . . . & On ye 7th you thought fit to present me with an Address, in w'ch you gave me Assurance, y't you w'd Dispatch ye matters I had recommended, to you, and such others as you thought necessary for ye Good of ye Province. I rely'ed on these promises, and it is w'th a great deal of Concern, y't I am forced to say, y't you had no manner of Regard to these promises. Y'e Two Bills which I believe all mankind will agree are the most necessary (because ye one was to provide for ye Support of ye Governm't & ye other for ye Defence of ye Country) mean ye Bill to Settle

ye Revenue & to settle ye Militia of this Province, had been so little Regarded, y't ye first was not brought in into ye H'e till Tuesday last, a day so late in point of time, y't every body knows it is Impossible for me to stay to pass it."

The last sentence in the speech gives a plain indication if any more were needed, of his hope that another legislature might be elected more compliant to his wishes. "Therefore y't I may see whether there may not be found persons inclined to support Her Ma'ties Gover't in this Province, as it ought to be, I do think fit to dissolve this present Assembly pursuant to ye Power to me Granted, by her most Sacred Ma'ty, the Queen under the Broad Seal of England this Assembly is dissolved."

Political parties began now to be formed in the province, with no distinctive names or distinguishing principles as to public policy, but differing so much upon one point as to be antagonistic to each other. They can only be described by saying that one favored the Governor and the other opposed him.

Cornbury determined that a majority of the members of the next Assembly should be entirely subservient to him, and endeavored to control the election to that end. In some respects it was easy for him to accomplish his purpose. The number of voters was small and in this early history of the province might perhaps have been influenced by selfish or other motives presented to them for the purpose of controlling their action. But there were other circumstances which militated against the efforts of the Governor and his friends. The electors were scattered over a large extent of country; the majority of them were sturdy, self-respecting, thoughtful men; many of them were keen-sighted and easily pierced through the thin veil with which Cornbury attempted to cover his cupidity and his baseness.

He was not successful. The majority of the representatives elected to sit in the second Legislature were opposed to him. So, it became necessary, if he desired to carry his pet plans by a vote of the Assembly, that he should resort to other measures. He was not deterred by the question whether his proposed plans were just or unjust—whether they were legal or illegal. What swayed him was his own selfish ends.

There were three prominent men from West Jersey who were elected members of the incoming Assembly. They were Thomas Gardiner, Thomas Lambert and Joshua Wright. Gardiner had been

elected Speaker of the House at the preceding session and had been accepted by the Governor as such Speaker. Thomas Lambert was a member of the first Legislature and had taken his seat without the slightest objection. But when these three members presented themselves to take the required oath, they were rejected, upon the ground that they did not possess the number of acres of land necessary to be held by a legislator, according to the "Instructions." The objection was formally made by two of the Governor's Councillors; it did not come from the Assembly, nor from any member of it, but from the Governor, himself, through the advice of his Council. He had, perhaps, an excuse for some action in the matter, provided a serious objection had been made by the proper person, but there was no authority given to him as Governor, to decide whether or not a member was qualified. The "Instructions" required that each member should possess, in his own right, 1,000 acres of land, or be worth a certain amount in pounds sterling. The fact that these three persons were the only ones who were refused the right to a seat and that they were known to be opponents of the Governor, makes the case very suspicious, to say the least, that the Governor was actuated by his fear of their influence against him, in the Assembly.

Almost immediately after the refusal to admit Gardiner and his fellows to their privilege of membership, a resolution was passed "that they may be admitted to make appear to ye H'e their Qualifications to sit in this Gen'l Assembly," and thereupon they produced copies of several surveys of lands, "possest by them in order to prove their Qualifications to sit as members of this House." This was on the 17th of November, 1704. There had been some action taken in the Legislature on the 15th and 16th, but nothing definite had been arrived at. On the 17th, the further consideration of the case was postponed until Wednesday, the 22d, when nothing was done, nor in fact, was anything accomplished until the 4th of December, when a petition was presented on behalf of Gardiner and his associates, that "ye H'e would please to Admit them to make their Qualifications to serve in this Assembly appear before them." An order was made upon this petition, that they be admitted to be heard the next day, when the further hearing was adjourned until the 6th of December; then the House proceeded to the consideration of the petition, and made this order: "Tho Lambert, Josh Wright & Tho Gardiner having appear'd before this H'e & shew'd their Qualifications to sit in this H'e as Members,

And ye House having considered ye same, are of Opinion y't each of them, hath a Thousand Acres of Land, And y'fore it is Ordered, That Mr. Salter & Jno Key do Attend his Excell'cy & Acquaint him therewith & pray y't they may be Admitted to take their Oaths or Attestation in order to take their places in this House."

Notwithstanding this action, the Governor still refused to permit these gentlemen to take their seats and on the afternoon of the next day the Legislature ordered that two of its members attend the Governor and state to him the reasons which satisfied the Assembly "that Tho Lambert, Joshua Wright, & Tho Gardiner held each of them 1000 Acres of Land in his own Right." This had no more effect than the prior action, and the seats of the three members remained vacant during the whole of the first session of the second Assembly; it was not until the next year that the Governor consented that they should take their seats.

On the 17th of October, 1705, the second day of the second session, the two members who had been appointed to wait on the Governor, with the reasons why the Assembly was satisfied that the members who had been refused their seats each had a thousand acres of land and were therefore entitled to sit in the Assembly, reported that they had attended the Governor and had informed him of the action of the Legislature and had requested him to admit the members. The Governor's reply, they stated, was "That whereas her Ma'ty had Reposed a Trust in him, y't he should be likewise satisfied of y'e Qualifica'ons of ye Members, & desired to know ye reasons w'ch had satisfied ye House of ye Qualifica'ons of ye sd persons." The report further stated that the Governor had ordered that the three non-sitting members should attend him the next morning at Nine o'clock. According to this order the three members did wait upon the Governor the next morning, and presented their deeds. He took minutes of the surveys of the lands, but made no decision, and it was not until the 26th of October that a message was received from him that he had admitted Gardiner, Lambert and Wright, and they took their seats.

But the mischief had been done. The object of the Governor had been accomplished. He had secured a majority of subservient members of the legislature who were willing to do his bidding. What he desired more than all else was that a bill should be passed providing for his own salary and for the expenses of the government. He knew that the three members from West Jersey would oppose it and that it

would not be passed, if they were sitting as voting members. The Legislature did pass an act directing that £2,000 should be raised by a tax upon the inhabitants, to pay the salaries of the Governor, the Lieutenant-Governor and the expenses of the Colonial Government. Some other statutes were enacted at the bidding of the Governor which legislation would not have been possible if Gardiner, Lambert and Wright had been seated.

The Governor's action was a clear infringement upon the rights not only of the three members, but also of their constituents and of the Legislature itself, and the consequence was that a great excitement was aroused in the province and that the opposition to the Governor, which had been slumbering, became more and more violent.

There was some other legislation at this session which can hardly be accounted for, when its subservience to the Governor as manifested by its action and the views of Cornbury, himself, are considered. An act was introduced and passed by which the qualification of the voters and of the representatives were entirely changed from those required by the "Instructions" and which also provided that the House should be the sole judge of the right of the members to seats. This act received the assent of the Council and was approved by the Governor, but was disallowed by the Queen.

In 1709, a statute was enacted which required that voters should possess one hundred acres of land or be worth £50, and that representatives must own a thousand acres or have £500 worth of real or personal property. This last act was simply a repetition of the requirements of the "Instructions." Its preamble refers to "the present constitution granted and allowed by our Sovereign Lady the Queen to the Freeholders, Inhabitants of this province, concerning the Qualifications of Representatives to serve in the General Assembly." This "the present Constitution" must refer to the "Instructions" to Cornbury by the Queen, when he was appointed. By the act of 1709, it was provided that the House of Representatives "when met in General Assembly, are, and shall be, Judges of the Qualifications of their own members."

The servility of the Legislature of 1704 to the Governor, is manifested by their answer to his address. They say this: "We her Ma'ties most Loyal & Dutiful Subjects, the Representatives of her Ma'tys Province of N. Jersey met in Genl. Assembly do with ye Deepest Sincerity & Gratitude, acknowledge Her Ma'ties Royal Goodness & favour towards

us, in taking and keeping us under ye wings of her Ma'ties protection and Govern't & more particularly in placing us under ye Excell'cys care & Conduct, whose great diligence & Exquisit Management is ye Admiration of y'r Friends & Envy of y'r Enemies, & tends wholly to ye safty of those whom kind providence has placed under your Excell'ys Govern't in Subordina'on to ye Crown & direction of ye Laws of England, whose Govern't is infinitely the most mild & Laws ye most wholesome in ye world."

The Legislature was adjourned by the Governor from 1704 to April 24, 1705, but did not meet on that day. It was then adjourned until the succeeding May and again, until October 15th, of the same year, when it met at Burlington. No record can be found of these adjournments, but there is a reference to them in the opening speech of the Governor made to the Assembly on the 17th of October.

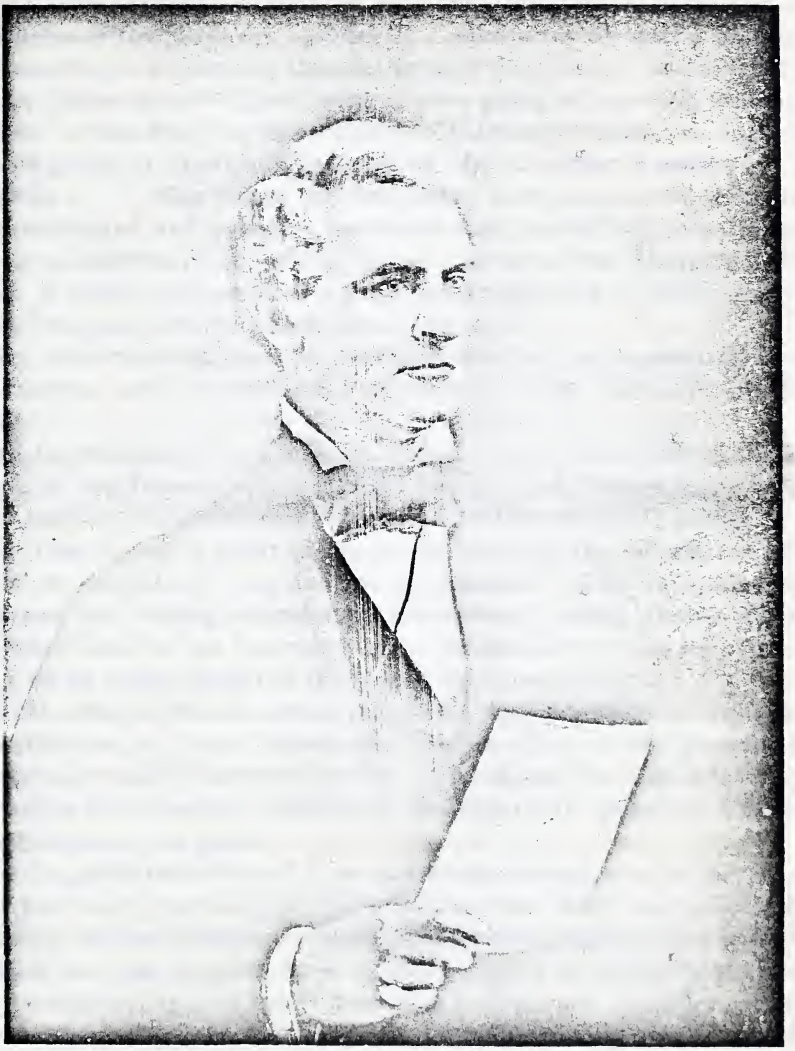
This Assembly was not so obsequious to the Governor as it had been; a strong spirit of opposition had been aroused against him which was decidedly manifested at this session, not so much by what was done as by what was not done. Cornbury, in his opening address particularly recommended the introduction and passage of certain acts, not one of which, however, was passed or even introduced. Among them, of course, was that which provided for the revenue of the Queen for the expenses of the government of the province. Cornbury was interested in this, because from it came his own salary. The Legislature refused to do anything until the status of the three members who had been refused their seats in the first session, was determined. They brought this question at once to the attention of the Governor, waited upon him with Gardiner and his associates and requested a decision. The Governor dallied with them—postponed—required to know the reasons which induced the Assembly to declare that they were entirely satisfied that the three gentlemen were qualified to take their seats. These were given, and then, the Governor again postponed his decision, but, finally announced that he was satisfied that the Assembly was correct and permitted the rejected representatives to take the oath. This illegal action of the Governor, thinly veiled under a pretended objection of two of his council, deprived the Assembly of the benefit of the advice and presence of two of its best members and the constituents of those members, of representation in the popular branch of the Legislature, for eleven months. The question as to the qualifications of the rejected members could have been settled in an hour's time, but even

after full evidence had been furnished, he took ten days to render his decision. On the 31st of October it was resolved by the Legislature that the house now being full, it should forthwith proceed to the transaction of business. A speech was prepared by a committee appointed by the Assembly, in answer to the address of the Governor. It was very short and plainly showed that the Legislature was determined to submit to no further encroachments upon its privileges. On the 3d of December it was ordered that the consideration of that part of the Governor's speech which related to the providing of a fund for defraying the expenses of the government should be referred to a special committee, who should report their opinion to the House, and then, it was directed, that the same committee should prepare a bill for payment of the fees of the representatives for attendance in the General Assembly. On the 9th of December, the Governor prorogued the Legislature until the first day of May, 1706. During the vacation, the discontent became more and more pronounced; it pervaded all classes. The proprietors of both Provinces were aroused and the opposition to the Governor assumed a most formidable aspect.

The prior Legislature, when it was deprived of the presence of Gardiner and his associates, with a majority favorable to the Governor, had passed an act directing that £2000 should be raised for the expenses of the government for two years. The two years were rapidly passing away and it became necessary that some means should be provided for the future. The Assembly stood firm and refused to accede to Cornbury's demand. The Legislature did not meet on the first of May, the day to which it was prorogued, but it did meet on the 25th of October, 1706, at Amboy. Nothing was done at this session; it adjourned from day to day until the 1st of December, without accomplishing anything and then, suddenly discontinued its session, for what reason cannot be ascertained. Nothing appears upon the Journal from that date until the 5th day of April, 1707, when the Third Assembly met at Burlington. At this meeting the opposition to the Governor manifested itself in a definite shape. The first day of the meeting was Saturday, when Samuel Jennings, one of the foremost citizens in the western province—a man of excellent judgment and good ability, was chosen Speaker. There was a significance in this choice; Jennings and Lewis Morris had been two of the most active opponents of the Governor and had incurred his decided displeasure. On Monday, the 7th of April, the Governor made his opening address, in which his first

recommendation was the passage of an act settling a revenue upon the Queen "as may be sufficient to support ye Dignity & Supply all ye necessary Charges of ye Governor." The amount limited by the address was £1500, which, it was stated, the Queen was willing to accept instead of the £2000, which had already been granted but only for two years. The Governor also made recommendations as to the passage of other acts. In the afternoon of the same day, the Assembly resolved itself into a committee of the whole House to consider of the Governor's speech and continued this action for three days, the Chairman of the committee reporting progress from day to day and requesting leave to sit again. On the afternoon of the 8th of April, a question arose as to the power of the committee to choose its own clerk, objection being made to the Secretary of the Legislature using his official position to be present at the debates before the committee. The Secretary, William Anderson, was appointed by the Governor, but the Legislature claimed the right to select another person in his stead, when the House was sitting in a committee of the whole. Anderson violently disputed this demand and insisted that, by virtue of his official position, he was entitled to be present when the House was sitting as a committee of the whole. This led to considerable discussion and the matter was finally referred to the Assembly itself, which unanimously decided that the Legislature had the right to appoint the Secretary for the committee. The Assembly objected to Anderson's presence because they had good reason to believe that he was acting as a spy on their actions, for the Governor.

While this contention between the Legislature and their Secretary was in progress, the Governor sent for the Assembly and made them another speech, in which he charged them with irregularity of action and made the special complaint that they had turned out Mr. Anderson, who was a sworn officer and had elected in his stead a representative who was a member of the Assembly, and recommended them to return to their House and proceed "Calmly upon the Weighty matters before you, like men determined to do their Countrey service." Notwithstanding this advice of the Governor, the Assembly persisted in their action and ordered Anderson to withdraw from the committee, which he refused to do. The subsequent action of the Legislature is thus given in the Journal, in the report made by Lewis Morris when the committee rose: "sd comittee did draw up a paper wch they directed him to Report, wch was rec'd & is as follows, viz. Upon De-



Fred. T. Frelinghuysen

bate Comittee of ye whole House, by ye Choice of a Clerk for yt comittee, Mr. Wm. Anderson, Clerk of ye House Insisted to be present at yè Debates of that Com'ee, to Offer as a reason for his being present, yt he was Sworn to discover Debates yt were dangrous to ye Governm't, & yt he did not know but ye Comittee, were going to have said Debates, & yrfore to turn him out, upon wch ye Chairman Replied, 'to suppose we were going to have such Debates,' & Mr. Anderson Answered: 'It looks like It.'" The House did not suffer Anderson's conduct to remain unrebuked and passed a resolution that his refusal to withdraw from a committee of the whole House "when he was thereunto Required, is a high Contempt, & a great Interruption of ye public Affairs of this Province, on which this House has met."

They also resolved that his words spoken in the committee were misdemeanor and a seandalous reflection upon the Members of this House.

The Legislature at last brought the subject of the Clerk to the attention of the Governor in a decided manner and desired him to appoint another clerk who was a resident in the province, giving as a reason that it was a great injury to the country that all the records should be carried off into another government. They also charged Anderson with having misbehaved himself and having made scandalous reflections on the Assembly and therefore they declared that he would be no longer useful to the Queen and the country.

To this address, the Governor returned a reply in which he requested a specification of "the Misbehaviour of ye Clerk & the Scandalous Reflections" said to be made by him. The result was that a few days afterwards the Governor discharged Anderson and appointed Captain John Pinhorn in his place.

The Legislature continued from day to day sitting as a committee of the whole and discussing the grievances which they had suffered by the action of the Governor. The issue of their investigations and discussions was the preparation of a remonstrance in which they stated their complaints against the Governor in a direct and forcible manner. On the 5th of May, the House resolved itself into a "*grand*" committee, which, after discussing the general subject, rose and reported, through Lewis Morris, a statement of the several grievances of which they complained; they were thirteen in number, and it was further resolved that the Legislature would lay these grievances "and the Arbitrary and Corrupt Practices of his Excell The lord Cornbury at her

Maj'ts Royall feet and pray that her Majesty would give her poore opprest Subjects such Reliefe as in her Royall Wisdom and goodness She Shall Judge most fitt."

Instant action was taken; a petition to the Queen was read and approved by the House and the Speaker signed it. A letter to the Right Honorable Robert Harley, one of her Majesty's principal Secretaries of State was also prepared and signed by the Speaker. Not only this, but an address to the Governor "Remonstrating some of the Grievances of this province pursuant to ye above Resolves" was presented to Cornbury by Samuel Jennings, the Speaker, who was attended by the whole House. This address spoke in no uncertain tones. While prepared with great care and assuming the peculiar tone of deference used in those days by citizens, when addressing persons in authority, it gave full scope to the charges made against the Governor and recapitulated fully what those grievances were. Not only that, but it directly charged Cornbury thus: "It is Notoriously known that Many Considerable Sums of Money have been raysed to procure the dissolution of the first Assembly, to get cleare of the Proprietors Quit rents, and to claim such officers as the Contributors Should approve of, this House has great reason to believe the money so gathered was given to lord Cornbury and to induce him to dissolve the then Assembly, and by his own Authority keep three Members out of the next Assembly, and putting So Many Mean and Mercenary Men into office by which corrupt practice men of the best estates are Severely harassed and her Maj'ts subjects in this province So Impoverished that they are not able to give that support to her Majesty's government as is desired or as they Would otherwise be Encloyned to doe."

The delivery of the address which was read by the Speaker, Jennings, to the Governor, was attended with some peculiar circumstances. The Governor assumed a very loud, dictatorial tone and haughty manner—interrupted the reader now and then with exclamations and questions; but, Jennings was equal to the occasion. He paid no attention whatever to the manner of the Governor, but, when interrupted with a question or exclamation, deliberately, but more emphatically than before, read the sentences over again. The principal matters set up in this address were non-attendance of the Governor in New Jersey; that some persons under sentence of death for murder, had not only remained unexecuted, having been condemned to die a short time after Cornbury came to the province, but had been allowed to go at large;

that parties who had been charged with crime, but against whom the Grand Jury had failed to find indictments, had been obliged to pay court fees; that the only office for the probate of wills, in the whole province, was at Burlington; that the Secretary's office for the eastern division was not kept at Amboy, but that all persons living in that part of the province were obliged to go to Burlington if they had any business to transact with that office; that the Governor had granted a monopoly for the carriage of goods from Burlington to Amboy; that he had undertaken to establish Court and other fees, which it was claimed could only be done by him in connection with the Council and the Representatives; that he had put the public records of the eastern division in the hands of Peter Sunmons [1] who did not reside in the province and had not given security for the keeping of records in due order; that he had prohibited the agents of the Proprietors from granting any warrants for the taking up of land in the western division; that he had refused to permit three members of the legislature to take their seats, allowing himself to be swayed by the groundless assertions of two of his Council; that considerable sums of money had been raised to procure the dissolution of the first Assembly, and paid over to Cornbury so as to enable parties who honestly owed them, to rid themselves of the payment of quit-rents; and that he had put many mean and mercenary men into office.

To this remonstrance the Governor, on the 12th of May, made his answer—long, desultory and rambling; lacking in dignity, wanting in force and inconsequent. In it, he vented his spite against the two men in the legislature who had been prominent in the opposition—Samuel Jennings and Lewis Morris. Mention has already been made of Jennings—a man without reproach and who had served the province in several positions of honor and trust; Morris, at this time one of the leading men in the province, became more and more prominent and will necessarily be mentioned hereafter. Both these men had been dismissed for their lack of subservience to the Governor.

By this time a new cause of offence to the Assembly had arisen. Peter Fauconnier was the Receiver General for the province. The Legislature, in some manner, became dissatisfied with his action, as such Receiver, and commanded him to appear before them with his accounts. He appeared and presented them. The Legislature required

[1] Sonmans.

that he should verify them by vouchers. This he refused to do, claiming that he was not the officer of that body and that he could only comply with its requests when ordered to do so by Cornbury. The Legislature instantly sent a committee to the Governor requesting that he should order Fauconnier to present his vouchers. He delayed, but finally said that the Receiver was only accountable to the Lord High Treasurer, who had appointed a deputy to audit such accounts and that if the House were dissatisfied with any of the charges, it could apply to the deputy, who would satisfy them.

The breach grew wider and wider. Each party was determined in its antagonism to the other, the Governor refused to yield and the Assembly unanimously resolved that nothing should be done until its grievances were removed. By this time the proprietors of both provinces, who had been thoroughly aroused by the action of Cornbury, took part in the controversy and sent a remonstrance to the authorities in England. The Assembly also sent one, but direct to the Queen, and the result was that in 1708, she, with very great reluctance, removed Cornbury from the office of Governor of New York and New Jersey. This date is incorrectly given by Gordon, who fixes it at 1709. Lovelace met the Council at Bergen December 20, 1708, then published his commission and summoned the fourth Assembly to meet him at Perth Amboy on the 3d of March, 1708, O. S.

Cornbury had become so obnoxious to the colonists in New York that they also had remonstrated to the Queen. After he was released from the prison, where he had been confined at the instance of his creditors, he returned to England, assumed his position as a peer of the realm, and died in 1723.

It is a suggestive fact that Lewis Morris, one of his principal antagonists in the Assembly, had been mentioned for the office of Governor just before Cornbury was appointed, but the affection of the Queen for her relative triumphed over her regard for the interests of her subjects.

The administration of Cornbury gave the people of the colony a fair opportunity of comparing the rule of the Proprietors with that of a royal government. Under that of the Proprietors, the Colonists elected the members of the Legislature, which the Governor could not dissolve, and it is very doubtful whether he could prorogue it. Philip Carteret, during the whole of his governorship, adjourned the Assembly only once and that was near the close of his term. During all his controversies with the Legislature, and they were many and continu-

ous, he never dared dissolve it. The Assembly sat as long as it pleased and adjourned when it chose. But under the royal rule, the Legislature might be adjourned or dissolved at a moment's warning, without cause or notice, and in the most abrupt manner.

Under the rule of the Proprietors, the widest toleration was guaranteed to all religions; no one could be molested on account of his faith. Under the new Government, there was a limited toleration only, to all Protestant denominations, Roman Catholics were directly excepted. But every possible opportunity was afforded for the growth of the Church of England. Queen Anne, in her instructions to Cornbury, required him to take especial care that "God Almighty be devoutly and duly served throughout your Government, the book of Common Prayer, as by law established, read each Sunday and holyday and the blessed sacraments administered according to the rules of the Church of England." Other directions from the Queen to her cousin, in these "Instructions," show conclusively that her great desire was that the State Church of Great Britain should be fostered and patronized, to the exclusion of all other denominations.

It is true that while the Proprietors ruled the province, there were no newspapers in the colony and therefore there could have been no muzzling of the press. The "Grants and Concessions" were silent on the subject, though it is manifest from many of its provisions that no restrictions would have been placed upon the press under any circumstances. But, under the royal rule, there was no liberty of the press. This is the clause of the "Instructions" referring to that subject: "Forasmuch as great Inconvenience may arise by the Liberty of Printing in our Said Province, you are to provide by all Necessary Orders; that no Person keep any Press for printing, nor any Book, Pamphlet or other matters whatsoever be printed without your special Leave or License first obtained."

While the Proprietors governed, all freeholders, or their agents, without limit as to value or amount of land owned by them, could vote at every election for members of the Legislature and any inhabitant who was a freeholder of any amount of real estate might be elected. But under the royal rule, a citizen, to be an elector must have owned at least a hundred acres of land, or be worth £50, and no one was qualified to serve as Representative unless he were the owner of a thousand acres of land, or were worth £500 of real or personal estate.

Other comparisons might be made showing the great difference be-

tween the two governments, but enough has been quoted for the present purpose.

The colonists entertained great hopes that their condition would be improved with the change in the administration. Lord Lovelace came with an excellent reputation and was an entirely different man from his predecessor. Lord Cornbury had filled all the offices within his patronage with his own favorites and the Assembly was perfectly correct in its charge that these men were mean and despicable. But matters were entirely changed under the rule of Lovelace. He was impartial in his administration of public affairs and in his selection of men to fill the offices. He was of great candor and mild and amiable in disposition and manifested throughout the whole of his short career as Governor an earnest desire to conciliate all classes, to advance the interests of the colony and to serve the Queen in all possible ways. His first meeting with the assembly was in the month of March, 1708, —the close of the year, according to the method of computing time at that period. Eighteen representatives only were present on the first day, eight from the eastern division and ten from the western; six afterwards appeared. Thomas Gordon was elected Speaker. On the 4th of March, the new Governor made his first address, which was very short and seemingly prepared with all caution so as not to excite any jealousy or irritation in the minds of the representatives. He made but two recommendations, one for the passage of a law providing for the expenses of the government, and the other for the putting of the militia upon a better footing. The speech was in direct contrast with those made by Cornbury; there was an absence of all arrogance and dictation; it was conciliatory, and suggestive, merely, and by no means authoritative.

The Assembly at once made a short reply to the Governor's address, and on the 7th of March resolved to introduce fifteen bills, the first of which was to provide for the support of the government. The proceedings of the Assembly went on smoothly, its first attention being given to the bill first introduced.

The Assembly did not lose sight, however, of its old quarrel. The Lieutenant Governor, Ingoldsby, and the Council had addressed a letter to the Queen, in which they had spoken harshly of the Assembly. The Legislature requested Lovelace to obtain a copy of this address for its use, which he did; after receiving it, they desired him to appoint a time and place and invite the authors of the letter to appear before

him and substantiate their charges. The Governor complied with this request, appointed a time and place, but Ingoldsby and his faction evaded any appearance whatever, and nothing came of the action of the Legislature. The session of the Assembly continued until the 30th of June, when it adjourned until the last day of November, to meet at Burlington.

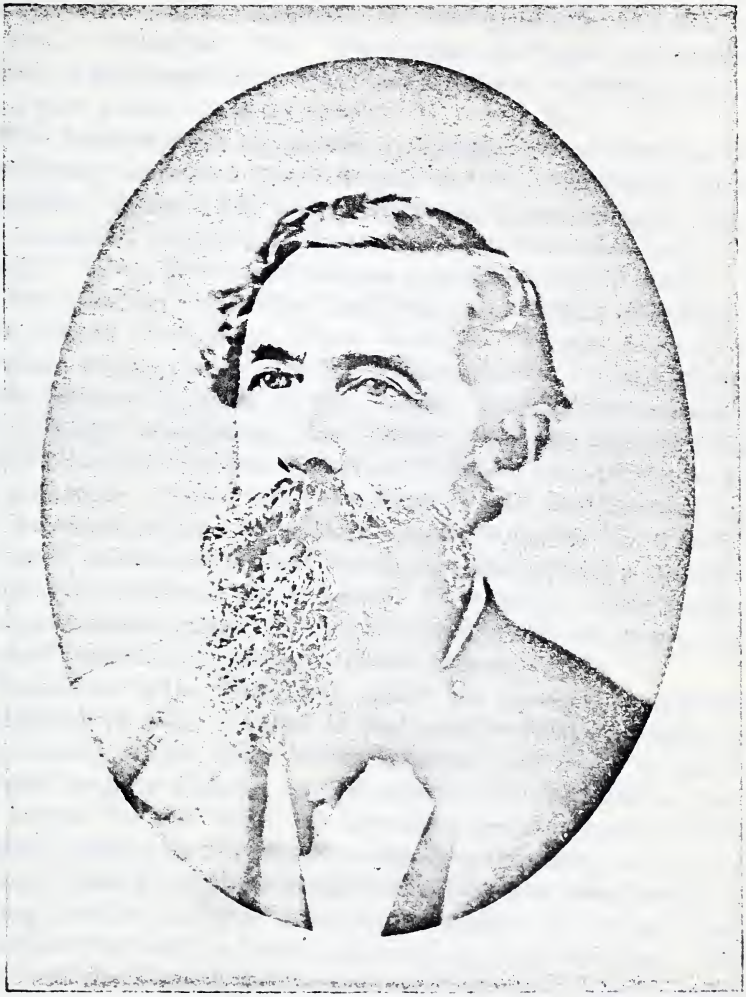
It was at this meeting that the scheme of issuing paper money, in the name of the province, was first introduced.

War had been declared in 1702 between England and France and it was still raging with great virulence. France had firmly established herself through her colonies, in the country north of the St. Lawrence and the lakes, now known as Canada, New Brunswick and Nova Scotia. Her possession of these countries had been acknowledged by Great Britain, as early as 1632. In this way an active and determined foe had become a near neighbor of New England and was enabled to strike its opponent through her colonies. Frequent incursions had been made by France upon the provinces near her borders. One of them had penetrated as far as the Merrimac River and had destroyed Haverhill, then quite a flourishing village. The colonists had applied to the mother country for relief and the English ministry had determined to send an expedition into Canada, composed of troops raised from the colonies, supported by a naval armament. New Jersey was among those called upon to contribute both men and money in aid of the proposed expedition. The number of men called for was two hundred and fifty and the amount of money was £3,000. The men could be easily obtained, but the province was in no condition to raise so large an amount of money, so the plan of issuing bills of credit was adopted. This plan met with some violent opposition, but it was so guarded and the rights of those who invested in the bills of credit issued by the colony were so well protected that there was no loss. In less than fifty years this paper currency had either been redeemed or had entirely disappeared.

The Assembly was adjourned until November, 1709. At this session two important and significant acts were passed, one of which provided that all members of the Assembly must be residents of the part of the province which they represented, and the other, conflicting with the "Instructions" to Cornbury which directed that the sessions of the Legislature should be held alternately at Perth Amboy and Burlington, provided that all sessions should convene at Burlington. The records

do not show whether this action was unanimous, or whether it passed by the vote of a majority. It is altogether probable, however, that it passed through the influence of the greater number of representatives from West Jersey.

The high hopes which had been entertained of the success of the new administration based upon the excellent disposition of Lord Lovelace and the happy manner in which he had entered upon the discharge of his duties in the administration of the affairs of the colony were doomed to bitter disappointment. He died after an illness of a few days, during the session of the Legislature subsequent to the passage of some of the important laws introduced, and was succeeded by Lieutenant Governor Ingoldsby. This man was almost as unpopular as Cornbury, of whom he had been a rather unscrupulous partisan. In connection with the Council, he had written a letter to the Queen attacking the Assembly for its action in the controversy with the Governor. That letter was in no respect a credit to its framers. It was violent and scurrilous and seems to have received no credit at the hands of Queen Anne. He did not remain long in office and was superseded, for a time, by William Pinhorne, who by virtue of seniority was entitled to act as Governor. He was one of the most unpopular men in the whole Council, but was soon succeeded by General Robert Hunter, who reached the province on the 14th of June, 1710, being appointed Governor General of the two provinces, New York and New Jersey. Hunter was a Scotchman and early in life had been apprenticed to an apothecary, but deserting that profession, ran away from his master, entered the army and rose to the rank of Brigadier General. He was a man of excellent natural parts, of fine address and great personal beauty, and married Lady Hay, a noble gentle-woman, by means of which marriage he secured a position amongst the gentry of England, which led to his future preferment. He was appointed, in 1707, Governor of Virginia, but on his voyage to that colony was captured by the French and carried to France. He was released and almost immediately afterwards appointed to succeed Lord Lovelace. Being a man of literary tastes, he had secured the friendship of Swift, Addison and other literati. He never overcame the impressions of his boyhood and carried with him into the social sphere to which he was introduced by his marriage, a slight dash of vulgarity, but his manners were otherwise pleasing, and while he was not a man of great ability or profound intellect, he managed to conduct the affairs of the two provinces



Geo. Woodruff.

during the ten years of his administration with credit to himself and benefit to the colonists. He ruled in unbroken harmony and showed great shrewdness in evading any contests with the legislatures of his two colonies. He met the Assembly of New Jersey for the first time on the 6th of December, 1710. His address was frank and soldierly and seemed to be acceptable to the Assembly who received it in the same spirit with which it was delivered

This Assembly was composed of representatives from the towns of Burlington, Salem and Perth Amboy and the Counties of Burlington, Gloucester, Salem, Cape May, Middlesex, Essex, Bergen, Monmouth and Somerset, twenty-four delegates in all, two from each town and county. Lewis Morris had become a member of the Council. He had for his associate Councillors such men as William Pinhorne, Daniel Coxe, Roger Mompesson, Peter Sonmans, Thomas Gordon, Thomas Gardiner, Elisha Parker and Col. Robert Quarry. Lewis Morris afterwards became Governor of New Jersey; Daniel Coxe had been Governor; Roger Mompessen, Chief Justice; William Pinhorne, Associate Justice; Sonmans, Gordon, Parker and Gardiner were prominent officially and otherwise. Parker was the ancestor of the distinguished family of that name which gave James Parker to the State and his illustrious son, Cortlandt, to the bar of New Jersey, and Quarry was a member of the Councils of four other States besides New Jersey. There was no lack of talent in either house; some of the most prominent men in the province had been sent as delegates to that Assembly.

The answer to the Governor's speech was peculiar; it was brief and conciliatory in tone, couched in the usual verbiage in which similar productions, at that time, were prepared, but dealt in generalities, declared nothing definite, except fidelity and gratitude to the Queen and sorrow for the death of Lovelace, and promised nothing. It seemed, judging by the present methods of criticism, as if the Assembly were feeling its way with the new Governor, was fearful of committing itself to any prescribed line of conduct, or giving Hunter any opportunity to bind its future action by any rash promises. The Governor and the Assembly, however, acted in concert, and the delegates soon found that he was their best friend and was ever ready to act for the best interest of their constituents. But the Council had many discordant elements although there were such distinguished citizens among its members. It antagonized both the other branches of the Legislature, the executive and the representatives of the people; its action was

factious and it appeared as if it were fully determined to obstruct legislation.

It will be noticed that up to this time the Assembly had been composed of delegates from towns and from the two divisions, East and West Jersey; but now, representation by counties appears. The first Assembly in New Jersey met in May, 1668, at Elizabeth Town and was composed of representatives from six towns. At the adjourned session in November of the same year delegates also appeared from an indefinitely described locality, or part of the province, called "Delaware River." Just where this locality was situated is left to conjecture. No representative afterwards appeared from any district in the colony, so called. The Assemblies which met both before and after the division were made up of representatives from the different towns, until the surrender to Queen Anne in 1702.

By the "Instructions," which contained the only organic law known from the time of the surrender until the Constitution was adopted by the Provincial Congress, on July 2, 1776, it was directed that the Assembly should be composed of twenty-four representatives, chosen as follows: Two from Perth Amboy, two from Burlington, ten from East Jersey and ten from West Jersey; and the "Instructions" were imperative. It was also ordered that this number of representatives should not be enlarged or diminished, or the manner of electing them altered otherwise than by "an act or acts of the General Assembly there (sic) and confirmed by the approbation of us our Heirs and Successors."

At the time of the surrender, there were at least ten towns in the province of enough importance to be represented in the Legislature. Six of these had already sent delegates to that body. These ten towns were Bergen, Newark, Elizabeth Town, Perth Amboy, Woodbridge, Shrewsbury, Middletown, Piscataway, Burlington and Salem.

Salem was once called Ferken's Creek, and an attempt was made to settle it in 1641, by some English families, sixty persons in all. The Swedes then had the control of the Southern part of New Jersey, but they were disposed to treat these immigrants in such a manner as to secure their allegiance. The Swedish Governor, Printz, who came to New Jersey in 1642, was directed "to act kindly and faithfully toward them." In 1654, the Swedes surrendered to the Dutch, who, in turn, in 1664, yielded to the English. What became of this English immigration in 1641, cannot be ascertained. John Fenwick, in 1673, obtained a large grant of South Jersey land, and in 1675, settled at Salem,

with his associates. So charmed was he with its peaceful appearance that he gave this name to the locality.

Fenwick came there with his two married daughters, their husbands and families and an unmarried daughter. He brought ten servants with him and one of his sons-in-law, three. The next year, ten persons apparently heads of families, signed an agreement as to the disposition of the land. In 1682 the town was made a port of entry, and in 1695 it was incorporated with a Chief Magistrate called a Burgess, who was authorized to hold a court with a jurisdiction of causes in which the claims did not exceed forty shillings. In 1693 the officers of the town, elected by the people, were a Burgess, a Recorder, a Bailiff and a Surveyor of Highways. So that, in 1702, Salem must have been a town of considerable size and importance.

Freehold, now the County seat of Monmouth County, was not known by that name until near the middle of the eighteenth century and it is doubtful whether it had any existence at all as a distinctive settlement, at the time of the surrender. It is proper, probably, to date its beginning from the year 1735, when the county courts first began to hold their sessions there. It was then called Monmouth Court House.[1] It certainly had no claims to representation in the Legislature, in 1702. Shrewsbury and Middletown were at that time both important localities in what was afterward known as Monmouth County. They had each their representatives in the first and some of the subsequent Legislatures, but were not recognized by the Queen in her "Instructions" to Cornbury, as to the formation of the Assembly.

It will be noticed that in these "Instructions" no counties nor any of the ten important towns save Perth Amboy and Burlington were mentioned.

Burlington was, at first, called New Beverley, then Bridlington and afterwards, Burlington; it was settled in 1676 by two companies of Quakers or Friends, one from Yorkshire and the other from London, in England. It was incorporated by the Colonial Legislature, in 1693, and patented by George II, in 1734; after the Revolution, in 1784, it was again incorporated. It was, at one time, the Capital of West Jersey and the records of the Proprietors of that part of the colony are still to be found in that city. The element represented by the Quakers,

[1] On a map appearing in the recent work of Professor Fiske on the American Revolution, showing the operations of the war, during the year 1776, Freehold is not named, but that locality is called Monmouth Court House.

in its early population, was overwhelmingly in the majority and its influence has never been lost.

Up to the time of Hunter's assuming his office of Governor of New Jersey and since the surrender, the delegates to the Assembly had been returned from the eastern and western divisions, without reference to their places of residence, except such as were elected for Amboy and Burlington, but, in 1710, there was a change; the representatives from the two divisions were then named as if elected in the different counties; those counties were Burlington, Gloucester, Salem and Cape May, in West Jersey; Middlesex, Essex, Bergen, Monmouth and Somerset, in East Jersey. The number of delegates was the same, however,—ten from each division. The first reference to counties, and that is very incidental, appears in a law passed by the Legislature, in 1675, at its second session. In Chapter VI it is enacted that courts of justice should be maintained which "may go under the designation of *County* Courts," and that "two of those courts be kept each year in each respective *county*, viz. Bergen and the adjacent plantations about them, to be a *county* and have two courts in the year, whose session shall be the first Tuesday in September. Elizabeth Town and Newark to make a *county*, ... Woodbridge and Piscataway to be a *county*, ... and the two towns of Nevysink to make a *county*." It is very doubtful whether the representatives, up to 1710, were chosen by counties; it is probable that they were generally elected from the two districts. But in that year they must have been elected by the separate counties, whether by general ticket, cannot now be determined.

A disturbing question of prime importance had arisen by reason of certain proceedings in the courts throughout the whole province, which involved the interests of a large number of the inhabitants, especially in West Jersey. The Judges of the courts, who were universally opposed to the Quakers, had refused to permit them to serve on juries. Cornbury, in his arraignment of the Assembly, had violently attacked them, charging that their refusal to take an oath was a mere pretence; that under the most solemn affirmation, they dared commit the greatest enormities; that they were designing and vindictive, and that the Queen's subjects "ought to beware and be protected from them." All these charges were in connection with the subject of juries, so that it is evident that the objection to their serving as jurors came from those who supported Cornbury.

In the time of William and Mary, remedial statutes had been passed

relieving them from many political disabilities. Queen Anne, who, with all her Stuart prejudices and failings, was inclined to follow the example of King William, in his liberality, undoubtedly intended to refer to the Quakers, in her "Instructions" to Cornbury, when she especially directed that an act defining the qualifications of jurors should be passed. She did not, it is true, specify that any particular class in the community should be enabled, by legislation, to be empanelled as jurors. But she did direct that Quakers should be permitted to affirm and should not be obliged to take oaths, and that they might fill the position of representatives and other offices of trust in the colony. Their fitness to do so and to become jurors could not be questioned; they formed the very best element in the colony and were remarkable for sincerity in their religious belief, for their integrity and benevolence and for their wisdom and sagacity. The practice which obtained so universally in the courts, of rejecting them as jurors, inflicted great hardships, interfered materially with the administration of justice and created much confusion. In many places the inhabitants from whom jurors could be selected were mostly Quakers. This question had agitated the community certainly since the surrender, and probably prior to that event. Early in Hunter's time, the Assembly attempted, by legislation, to remedy what really was a great evil. Accordingly, an act entitled "An act for ascertaining the qualifications of jurors and enabling the people called Quakers to serve on them," was introduced and passed by the popular branch of the Legislature and was then sent to the Council for its concurrence, but was rejected.

This action of the Council, virtually withdrawing a very large majority of the citizens in one part of the province from the performance of so important a duty, involving the highest interests and the dearest rights of suitors in courts of justice, and creating an inequality among the colonists, not warranted by any existing circumstances of the case, could not have arisen from high motives, but must have been actuated by base and selfish impulses. But the Council was victorious and by their opposition, effectually prevented the passage of a law based upon the truest principles of right and which should have received the support of every right minded man in the Legislature.

At the session of the Legislature beginning March 17, 1713, an act was passed thus entitled: "An act that the Solemn Affirmation and Declaration of the people called Quakers shall be accepted Instead of an Oath in the Usual Form and for Qualifying and Enabling the said

People to serve as Jurors and to execute any office or Place of Trust or Profit within this Province." The form of the affirmation directed to be taken by all persons conscientious as to the matter of oaths, was this: "I, A. B., declare in the presence of Almighty God the witness of the truth of what I say." This act required Quakers to be drawn for jurors and enabled them to sit on juries and to hold offices of profit and trust. The statute, however, was to be in force for only eleven years. When speaking of those holding the tenets of the denomination of Christians called by themselves, Friends, this expression was used: "Quakers or *reputed* Quakers." The act declares that the affirmation taken in pursuance of its provisions shall be as binding as though an oath had been administered and imposed the same penalty for perjury as was then in force.

From the rejection by the Council of this and of other acts, not so important nor so necessary, but which deserved its support, the Assembly finding the antagonism of its co-ordinate branch of the law making power so pronounced that it would be impossible to pass the law, abandoned it, but was more successful in its vindication of a former Assembly from charges made against it to the Queen through a letter sent to her by Lieutenant Governor Ingoldsby and some members of the Council, in 1707, in the time of Cornbury, purporting to come from the whole Council. It was very severe in its denunciation of the Assembly, but more particularly attacked Lewis Morris and Samuel Jennings, then members of the House and prominent in their opposition to Cornbury. This communication was slanderous and untruthful, and its authors deserved rebuke. It however, referred to a prior legislature and it would seem that it was entirely unnecessary for this Assembly to attempt the vindication of a similar body which had met three years before. But the members did not thus argue and proceeded, at once, to dispense justice to any of the offenders whom they could reach. William Sandford was a delegate from Bergen to the Assembly of 1710; he was one of the Council and had signed the offensive letter to the Queen. The Assembly first passed a resolution that no person who had signed that "false and scandalous representation" was a fit member to sit in the house, unless he acknowledged his fault. Sandford was called upon to answer and admitted that he had signed the paper, but, when asked if he would acknowledge his fault, refused to do so, alleging that he was a member of her Majesty's Council and was only accountable to the Queen, and

therefore it was "ordered that Major Sandford be expelled this house for signing a false and scandalous paper, called 'humble address' of the Lieutenant Governor & Council to her Majesty, in the year 1707; and he is expelled this house accordingly." Not satisfied with this, the Assembly made what it called "the humble representation of the General Assembly of her Majesty's province of New Jersey." The representation was a long and labored attempt to prove that the "Humble Address" to the Queen was both false and scandalous. It attacked the Council, as a body, and singled out individual members of it, by name, for its severest censure. In this effort, it not only succeeded most effectually, but it secured the support of the Governor and the removal of the most obnoxious members of the Council.

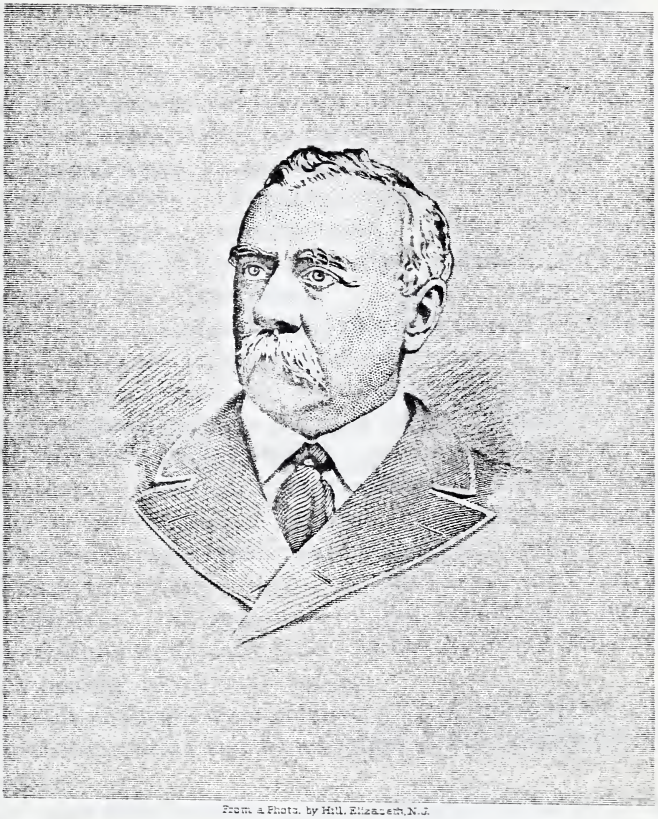
In their "representation" to the Queen, the Assembly exculpated certain Councillors who had signed the "Humble Address," upon the ground that they had either been deceived, or that they had put their names to the obnoxious paper unwittingly, supposing it to be some document which had been regularly passed by the Council and that their signatures were mere matters of form.

In July, 1711, Hunter again convened the Legislature at a very important period in the history of the mother country. War was still raging between England and France and another expedition was contemplated against the French provinces in North America; men and money were needed and the Governor demanded both,—360 men and £5000 from the Assembly,—which promptly responded and issued new bills of credit in addition to the £3000 already raised. The means for paying these bills of credit, for both issues, were provided from a sort of sinking fund from future taxation.

The year 1713 was prolific in very important legislation. The Assembly met on the 7th of December, 1713, at Perth Amboy, and continued in session until the 17th of March, 1713–14 and forty acts were passed, a few of which deserve notice. Some of them will give a glimpse of the customs of the time; others will exhibit the initiatory to modern legislation on important matters and all that are quoted will afford information as to the subjects which engrossed the thoughts of the law givers of those times. The acts for "*regulating of slaves*," "*regulating of white servants*," "*establishing a Ferry from Burlington to New Bristol*," for "*laying a duty on Negro, Indian and Mulatto slaves*," and several acts naturalizing foreigners will illustrate some of the customs of the time. Queen Anne, in her "Instructions" to Corn-

bury had especially favored slavery and the passage of the act for "the regulation of slaves" gives abundant proof that this domestic institution had become established in the province; but, it became necessary to regulate it and so that act was passed. Several penalties were imposed on any persons who should traffic with slaves without the consent of their masters or overseers, or those who hired them. Any persons finding slaves straying five miles beyond their master's residence, without his permission, might punish the wanderers with twenty lashes on the bare back, for which he was to be paid by the owner, with a charge of six pence per mile for returning the slave; if any slave came into the province without license from the owner, he could be arrested, whipped on the bare back and imprisoned, the owner to pay for the thrashing and for the expense of confinement; for certain offences, the slave could be put to death, but the owner might appear at the trial and defend his property. If a Constable, Justice of the Peace, or Juror should refuse to perform the duty enjoined on them by the act, a fine of £5 was imposed on the Constable or Justice so refusing and twenty shillings on the Juror. If any one should employ or harbor a slave, except in stress of weather, without the consent of the owner, a fine of forty shillings was imposed and if, in consequence of such employment or harboring, the slave should be lost, die, or become unserviceable, then, the value of the slave was recoverable. No manumitted slave could hold real estate in fee and any one who should free a slave was obliged to give bond with two sureties to the Sovereign in £200 conditioned to pay £20 yearly to the manumitted chattel, so long as he lived, and these slaves were not only negroes and mulattos, but Indians.

The act for regulating white servants, refers to persons, male and female, brought into the province by immigrants and also to those sold to serve such as would pay their passage money from Europe to America, for their service. Many who could not pay, were, on their arrival here, put up and sold by public vendue to the person who would take their services for the shortest time and pay the charge connected with their transportation hither. They did not necessarily for this reason, lose character nor standing. It is a tradition in some of the very best families in New Jersey that their ancestor was sold "to pay his passage." And there are instances on record where the servants brought over by colonists intermarried with the daughters of their masters. But the relation created in this manner required regulating. So, by the act in question, it was provided that any servant should serve



From a Photo. by Hill, Elizabeth, N.J.

ROBERT STOCKTON GREEN.

GOVERNOR OF NEW JERSEY

double time for any absence without leave, and pay damages; a penalty of £10 was imposed for enticing servants from their masters; ten shillings for every day's harboring and fifteen shillings was paid to any one who should return runaways, besides six pence a mile for charges.

A ferry was authorized "to be kept and plyed" across the Delaware River from Burlington town and island to New Bristol in Pennsylvania. The ferryman was to be licensed by the Governor and was to keep good and sufficient boats for carrying "men, horses and cattle." No provision was made for any wagons or vehicles. The "Fees or ferriages" were as follows: "For single person three pence." "If above one person two pence halfpenny each." "For each man and horse, nine pence." "For every ox, cow, steer or heifer, one shilling, and for every sheep or hog, three pence." A fine of twenty shillings was imposed for making a charge for ferrying any person or commodity over the river, unless the ferryman was duly licensed, and it will be noticed that no provision is made for the transportation of any vehicle.

A special act was passed laying a duty on negro, mulatto or Indian slaves imported into the province.

No person could be proceeded against criminally otherwise than by a Grand Jury, or by Information on an order of the Governor signed in Council, and all persons prosecuted must be brought to trial "the second term after such Information filed, or be discharged the court without paying of any Fees." If acquitted by the verdict of a jury, the accused was not obliged to pay any fees. If the Attorney General violated this law, a penalty of £5 was imposed.

The qualifications of jurors were defined. They must be of "good Fame, Credit and Reputation and Freeholders of the County for which they shall serve."

Grand Jurors must each be worth £100 in real estate and petit jurors £100 in real and personal estate in the county in which they shall serve.

But one of the most important acts was that which related to wills and powers of attorney. The title of this act was this: "An act for confirming of Conveyances of Lands made and to be made by Wills and Powers of Attorney, and declaring what exemplifications of Records and other Things shall be holden and received for good Evidence of Estates of Inheritance, and for transferring of Uses into possession." This act was passed on the very last day of the session. It declared that all former wills with only two witnesses should be valid, if other-

wise executed according to law, but that all wills thereafter made should be executed in the presence of three witnesses and regularly proved and entered in the proper office of record. Copies of wills theretofore made or thereafter to be made, in any part of Great Britian or Ireland, if legally authenticated, were to be received in evidence and to be as effectual for the conveyance of any real estate in the province as if the original will were produced. All deeds made by virtue of any letters of agency, powers of attorney, or other powers or authorities were to be valid and binding, provided the authority had been properly recorded. Solemn Livery of Seizin was declared to be unnecessary. Care was taken, however, by the Legislature against fraud or forgery.

Another act of great importance was also passed on the last day of the session. Its title was: "An act for acknowledging and recording of Deeds and Conveyances of Land within each respective county of this Province." It remained in force until January, 1721, when it was disallowed by George I. It provided for the acknowledgment of deeds for the conveyance of lands in New Jersey. Deeds might be acknowledged by the grantor or proved by one or more of the witnesses, "either before any of the Justices of the Supreme Court, or one of her Majesty's Council, or the Judges, or any two of the Judges of the Supreme Court of Common Pleas, within their respective Counties." When so acknowledged the documents might be recorded in proper books by the Clerk of the Court of Common Pleas of the County where the land was situate.

From 1713 until 1716 there was comparative quiet in the province and nothing occurred worthy of relation. There had been meetings of the Legislature, but nothing of any consequence had been accomplished at these meetings.

The peace of Utrecht, signed by the two belligerent powers on the 31st of March, 1713, put an end to the war between England and France, and relieved the colonies in North America from hostilities of the most distressing character.

Queen Anne died August 1, 1714, and was succeeded by George of Hanover, who became George I of England.

This event caused the dissolution of one Legislature; another met the same fate when a new patent to Hunter, as Governor, arrived, and a third was also dissolved, but for what reason is not now apparent.

Hunter, after these occurrences, summoned a Legislature to meet him at Burlington on the 4th of April, 1716, but it soon became evi-

dent that there had been a change in the political aspect. There was a majority opposed to the Governor, who, at once, manifested their antagonism. The relations between him and the Assembly had always been of the most amicable character and he had had no reason to anticipate any such change from any action of that body prior to this session. To what influence this was due cannot be ascertained, but it was well understood that the party which supported Cornbury, while he was Governor, was still in existence and had received some accessions, several of the most obnoxious members of the former Council having been elected delegates. This spirit which impelled many to rally around Cornbury, now manifested itself and at the very beginning of the session. There was some reason for the uneasiness shown by the members of the Assembly with reference to the place of their meeting. By the "Instructions" Queen Anne directed that the Legislature should meet alternately at Amboy and at Burlington. The Legislature, however, had directed that all its sessions should be held at Burlington, and in this action there seemed to have been a general acquiescence. But this year, the Governor called them together at Amboy. The Assembly demanded a copy of the king's order by which the change was made. This was promptly furnished by Hunter and thereupon the Assembly remonstrated and asked him to prorogue its meeting to Burlington, reminding him of the act of the Legislature passed in 1710 and approved by the Queen, ordering that all future sessions should meet there. The Governor replied that he was acting under orders from the King, which were paramount law to him. Considerable discussion ensued; the Governor was dignified, but firm, in his refusal and the representatives finding that the king had specified the place of meeting in his commission to Hunter and that the Governor would not yield, submitted. But this submission was only temporary. The disaffection manifested itself in another manner and it soon became apparent that the Assembly was determined to prevent any legislation. Its very first formal action had been significant; it appointed Daniel Coxe, an avowed opponent of the new Governor, its Speaker. His antagonism to Hunter was well known and his appointment was believed to be a menace to him. The Assembly dallied, avoided action and spent unnecessary time in Committee of the Whole discussing the Governor's speech. Hunter behaved admirably and with great dignity and finally prorogued the Legislature. He called it together again, on the 14th of May, 1716, but only nine members then

appeared. Coxe, the opposing Speaker, himself, was absent. It was evident that there was a conspiracy among the absentees to prevent any further action by the Legislature. But the Governor and such of the members as appeared at this second session were equal to the occasion. They waited five days, but none of the absentees appeared and then the nine members waited on the Governor and requested him to take measures to secure the attendance of a sufficient number to form a quorum. It was necessary that acts should be passed to provide for the expenses of the Government and for the issue of new bills of credit. The Governor enforced the attendance of the members by writs commanding them to appear under a penalty. Four, at once, attended, who with the nine made a majority of the whole body and sufficient for a quorum. John Kinsey was elected Speaker, in place of Coxe, who still refused to appear. The thirteen then began to inquire into the conduct of Coxe and the other non-attending members, and they were all expelled, with one exception, Jacob Spicer, from Cape May, who appeared at the bar of the Assembly and having made a satisfactory excuse, was permitted to take his seat.

The Assembly also declared that none of the members thus expelled, should be allowed to sit again in the House, even if they should be re-elected. Some of them were returned to the same Legislature, but the delegates were determined to carry out their order and promptly rejected them. Another session met at Crosswick, the small-pox being prevalent at Burlington, but it only continued a few days, the Assembly itself asking the Governor to prorogue it, which he did until the next January. At this session two important laws were passed; one appointing commissioners to act with similar officers from New York, for settling the boundary between the two provinces, and the other to define the division between East and West Jersey. Neither of these lines had been determined definitely. George Keith, the Surveyor General, had run the line between East and West Jersey in 1687, but his return does not seem to have been satisfactory. The preamble to the act recites that many "Doubts, Debates and Controversies have arisen" concerning the "Boundaries or Lines of Partition" between East and West New Jersey; that the line had not been really run, although attempts had been made by persons appointed by agreement for that purpose. The Commissioners selected to establish the boundary between New York and New Jersey went no farther in the execution of their duty than to fix the northern partition point and that they

settled as being at forty-one degrees, forty minutes north latitude, on the northern branch of the Delaware River, which they found to be the Fishkill Creek. Nothing whatever was done by the Commissioners to settle the division line between East and West Jersey.

This was the last Legislature convened by Robert Hunter. He continued Governor, however, until the 13th of July, 1719, on which day he left America promising and expecting to return, but soon after reaching England, he made an arrangement with William Burnet, by which he exchanged his office of Governor of New York and New Jersey for that of Comptroller of the Customs, and never returned to the colony. He had conducted his office with great prudence and wisdom, under trying circumstances, and received the approbation of the Legislatures of the two provinces which he had governed.

William Burnet was the son of the celebrated Gilbert Burnet, Bishop of Salisbury. He took his first name, William, from William, Prince of Orange, who became his sponsor at his baptism. He received uncommon advantages in early life through the supervision of his education by his father and the more renowned Sir Isaac Newton. These advantages were supplemented by extensive travel and by his intercourse with the talented and learned associates of his father. He was an industrious student, and yet, if he himself is to be believed, his father discovered no more than ordinary talent in him before his twentieth year. He delighted in study and in books and was profuse in his expenditure for these, his loved companions. He was unostentatious, frank and social, and had none of the reticence and austerity that often characterize the student, but was easily approached and possessed great affability. Naturally alert and sagacious, his extensive acquaintance rendered him an excellent judge of his fellow men; while his wide experience enabled him to meet the demands of the office of Governor, his acquirements and cultivation fitted him for the society of the wise and learned. He was impecunious, having lost most of his fortune by unwise speculation and some of his methods of obtaining money were questionable.

Governor Burnet was fortunate in having had the benefit of an intimacy with his predecessor, Hunter, who was enabled to give him much information relative to the province and to the men with whom he would become associated. He also assumed his office at a time when the most amicable relations existed between the three branches of the government. But, notwithstanding these aids, he made a serious

blunder at the very beginning of his term of office, in his address to the Legislature, the same left in session by Hunter and which Burnet at once convened.

Governor Burnet was fond of polemical discussion and of biblical study, and like some others whose tastes led them to the examination of abstruse subjects hidden in prophecy and oriental imagery, pursued investigations into realms where wiser men dared not venture. He wrote extensively on the prophecies in the Bible, and especially that of Daniel and published a volume on the Book of Revelation, adding one more theory to the many that have been formulated on that strange and mystical production. His brother, Gilbert, an English Divine, of some eminence, in the established church, when he first heard of the Governor's design of commenting on St. John's remarkable Book, endeavored to dissuade him from the undertaking. But his entreaties were futile; the book was written, printed and a copy forwarded to the clergyman, who, after reading it, was forced to admit it had great merit.

Burnet did not confine his attention to the prophetic and mystical, but wrote on astronomical and some other scientific subjects. He was careless of forms and ceremonies, despised cant and disliked anything like an approach to formalism. His frankness of expression, together with these characteristics prompted him to make use of language which shocked the austere Puritan of his day. After he relinquished his office of Governor of New York and New Jersey, having been appointed Governor of Massachusetts with some other provinces in New England, he was met, on his way to Boston, at various points of his progress, by several clergymen and members of the General Court. They were attracted by the reputation which he had acquired of great biblical learning. One of them, with whom he was about to dine, asked him how he preferred to have the blessing invoked over their meal. The dismay of the strict Puritan may be imagined when the prompt reply came: "Standing or sitting, or no way, just as you please." In his early life he was charged with infidelity, but, later on, he undoubtedly became a devout believer in Christianity. The whole tenor of his later life, at least, was that of a man who firmly believed in the truth of the revealed religion of Christ. A portrait of him still preserved in the Senate Chamber at Boston represents a large, burly man with a face indicating that its possessor loved a joke, was fond of the pleasures of the table and had enjoyed life and its blessings. It is

not an intellectual face, but rather that of a bon vivant, of one who cared more about the quantity of his food than its quality; it is the face of a man of native goodness of heart who delighted to please others provided no great demand was made upon him.

Governor Burnet was fortunate in meeting with his predecessor in England before he assumed the duties of his office. From the intimacy then acquired he received much valuable information relative to the province he was to rule and the men with whom he would become associated. He had great advantage in another direction; he became Governor at a time when the most amicable relations existed between the three branches of the government. But, notwithstanding these aids, he made a serious blunder at the very beginning of his term of office. He convened, at a very critical period, the same Legislature which Hunter left in session. The colony was incumbered with a heavy debt, there was no circulating medium of a metallic or other character, except such as might be supplied by the paper currency of New York and other Colonies. The colonists were put to great inconvenience in the payment of taxes, when wheat, which was allowed by law to be used for that purpose, could not be obtained; broken plate and different kinds of jewelry being then employed. The paper money issued by other colonies was not made a legal tender by statute in New Jersey, either for taxes or for debts. Great embarrassment was the consequence of all this and traders and their customers were alike involved in great difficulties in their commercial transactions. The population of the whole province was about 30,000. There had been no exact census of the inhabitants, but this seems to be the nearest approach that can be made to the real number of the people.

It was at such a crisis as this in the history of the colony when Burnet reached New Jersey.

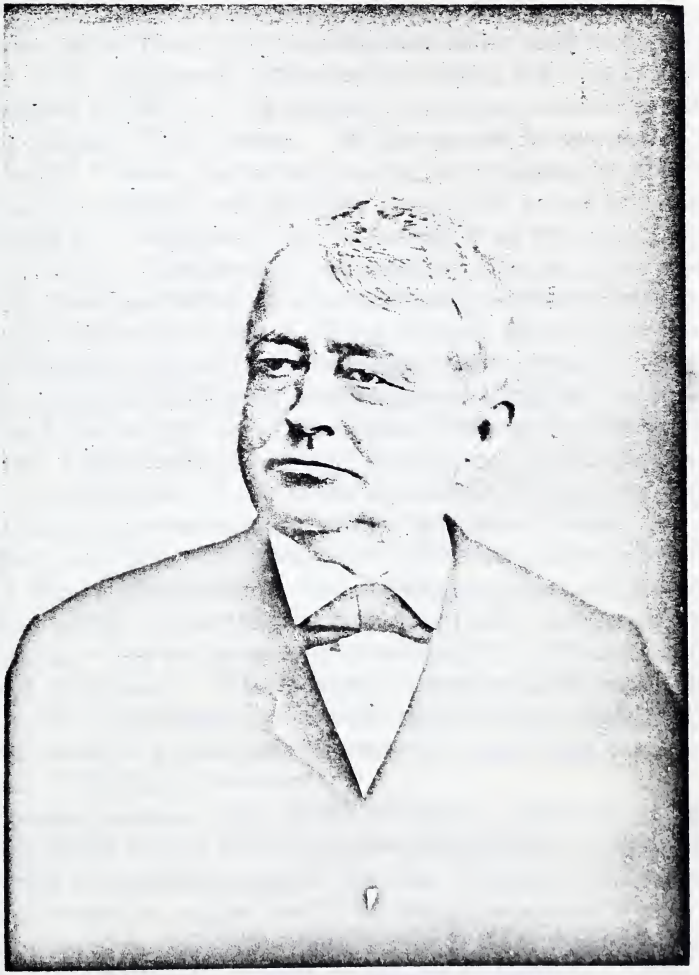
Hunter had always succeeded in securing whatever the needs of the government required. He assumed a conciliatory method in his speeches, never demanding but always submitting the necessities of the case in a plain straightforward manner, and addressing himself to the good judgment of the representatives. The Legislature soon learned that he was entirely truthful in his statements and that he only asked for what was really needed. Burnet, however, in his first speech to the Legislature, assumed a different tone which seemed to irritate the members and their answer was brief and cold. There was no harmony between him and the House and this manifested itself in several directions.

A question was raised whether the action of Burnet in calling together the same Legislature convened by Hunter, was legal. In fact, it was directly charged by some of the members of the Assembly that it was contrary to law. This challenging of the Governor's policy, the general coldness of the Legislature and its evident disinclination to agree with him induced Burnet to prorogue the Assembly until April 21, 1721. The antagonism seemed to increase and a new Assembly was called together. The precise day of the meeting of the Legislature thus convened is not known, but it was early in the same year. There was a better feeling towards the Governor, on the part of the new House, and matters were conducted much more smoothly.

This Legislature was the only one summoned by Burnet and it continued until the close of his term of office, in 1727. It had only two Speakers, Dr. John Johnstone, of Amboy and William Trent, of Burlington. Dr. Johnstone came from Scotland, in 1685. He was a physician and highly esteemed for his skill and greatly beloved for his benevolence. He was a member of the Assembly for thirteen years, and, at first, established himself in his profession in New York, but afterwards removed to Amboy, at what precise time, it cannot be determined, but certainly before 1707. He was a man of great prominence in the province and took a very active part in public affairs. He had a large plantation in Monmouth County, but undoubtedly had his legal residence in Amboy, from which locality he was elected as a representative to the Assembly, and was twice chosen Speaker, and died in Amboy, in 1732, in his 71st year. A Philadelphia newspaper noticed his death and speaks of the "inexpressible loss to the poor, who were always his particular care."

William Trent, afterwards Chief Justice of the Supreme Court, was a large land owner at Trenton, the present Capital of the State, to which he gave his name. This Legislature does not seem to have been very busily employed, but it passed some very important acts.

King George's title to the English crown was violently contested by a large number of his subjects in Great Britain, especially by those holding the tenets of the Roman Catholic Church. The Pretender, as he was called by the adherents of the Hanoverian, was giving the English government an immense amount of trouble by his attempts on the throne. Fears were entertained that the rebellion, incited by the adherents of the Stuarts, might extend to the English provinces in America. So, in 1723, the Legislature of the province passed an act



ABRAHAM V. VAN FLEET.

for securing his "Majesty's government in New Jersey." The statute was very stringent in its provisions and made sweeping demands upon the colonists to maintain their loyalty to the reigning sovereign. It provided that two or more justices of the peace or certain persons to be approved by the Governor, for the purpose, might summon any suspected person before them, women and minors under eighteen excepted, and oblige them to take and subscribe four oaths, the forms of which were prescribed in the act. By the first, the affiant avowed his allegiance to his Majesty, King George. By the second, he swore that from his heart he did "abhor, detest and abjure, as Impious and Heretical, that Damnable Doctrine and Position" that any prince who was excommunicated or "Deprived" by the authority of the See of Rome, might be deposed, or murdered by his subjects, or by any other persons. By the third, the affiant declared, in the most solemn manner possible, that King George was lawful or rightful King of Great Britain, that the Pretender, by whatever title he might be called, had no right or title, to the crown; he reiterated his allegiance to the present King and that he would maintain and defend the act of succession limiting the crown to the issue of the Electress Sophia, being Protestant. By the last, he declared that he did believe "that in the Sacrament of the Lord's Supper there is not any transubstantiation of the elements of Bread and Wine into the Body and Blood of Christ, at or before the Consecration thereof, by any Person whatsoever" He also declared that any Invocation or Adoration of the Virgin Mary or any other Saint and the Sacrifices of the mass as "they are now used in the Church of Rome are superstitious and idolatrous." The strongest terms possible were used in these oaths and declarations to prevent those taking them from any glossing of words or putting any construction upon them than such as was used by "*English Protestants.*"

If any person so summoned, should refuse to appear, or, if appearing, should refuse to take the oaths, then, the justices or other officers were directed to report his name to the next "Supream" Court held in the Division where he resided, and if he refused to appear then, or if he appeared, refused to take the oath, he should be adjudged to be a "Popish Recusant Convict" liable to all the punishments imposed by the laws of England.

This Legislature first introduced the system of pleading payment and giving notice of any set off. The Defendant in any suit, in any court in the province, when sued, having a claim against the Plaintiff, might

plead payment and give notice of set off. If, on the trial, the court or the jury determined that the Defendant by his set off had paid the Plaintiff's claim, judgment must be given for Defendant, with costs; if any part of Plaintiff's claim were paid by set off, the amount was deducted from the Plaintiff's debt and judgment given for the balance; if the Defendant's claim more than balanced the Plaintiff's demand, the Defendant recovered a judgment. If the Defendant neglected to file his set off, he was debarred from bringing any subsequent suit.

But the most important action of this Legislature was the passage of a statute on the 24th day of September, 1723, for the support of the government and for the issuing of £40,000 of paper currency. This might have resulted more disastrously, but it proved of immense benefit. The two adjacent colonies of New York and Pennsylvania, for some time previous, had issued paper money to meet the wants of their respective business communities. The experiment had been successful and the colonists of New Jersey were clamorous for the adoption of the same plan in their province. The statute was entitled: "An Act for an Additional Support of this Government, and making Current Forty thousand Pounds in Bills of Credit for that and other Purposes therein mentioned." The preamble to this act recited that many petitions and applications had been made to "the Governor of this Province by the Freeholders, Merchants and Inhabitants of the same setting forth that the Silver and Gold formerly Current in this Province, is almost entirely exported to Great Britain and elsewhere, and thereby the many Hardships which His Majesty's good Subjects, within this Colony, be under, for want of a Currency of Money, and that both the Neighboring Provinces of New York and Pennsylvania, to which the Exportation of this Province is chiefly carried, have their Currency of Money in Paper Bills, and do pay for the Produce of this Province in no other Specie. And which Bills of Credit of the Neighboring Province being no legal Tender here, do expose the inhabitants of this Province to Numerous Vexatious Suits for want of Bills of Credit in this Province, by law made and declared a Legal Tender, as is done in the Neighboring Provinces." "And that though they had enough of the Bills of Credit of the Neighboring Provinces, yet to pay the small Taxes for Support of this Government they have been obliged to cut down and pay in their Plate, Ear Rings and other Jewels; and that many Law Suits and Differences have arisen, and do daily arise amongst them, which would be the Ruin of a great Number of the said Inhabitants

if some Method be not found out for their Relief." . . . "And being well informed of the Relief which the Neighboring Provinces have found, in the like Case, by a Paper Currency, and hoping the like effects from it here, and finding no other way to Remedy the Grievances aforesaid of his Majesty's good Subjects here."

The statute enacted that Bills of Credit to the value of £40,000 current money of America, or 116,666 ounces and 13 penny weights and 8 grains of plate should be printed within three months after the publication of the act. The bills were to be issued in different denominations of £3, £1, 15 shillings, 12 shillings, 6 shillings, 3 shillings, 1 shilling and 6 pence and 1 shilling. £3,000 in value of these bills were to be delivered to the Treasurer of East Jersey and £1,000 to the Treasurer of West Jersey and the balance to Commissioners appointed for the different counties in certain proportions established by the act. These Commissioners were required to give security for the faithful performance of their duties. When the bills were thus passed into the hands of the Commissioners they were to loan them out to applicants upon security, "by a mortgage on lands, lots, houses, or other valuable improvements lying in the same County." Before the Commissioners should close the loan they were required to visit the land offered for security, to examine the titles thereto and satisfy themselves that the land was entirely clear of all incumbrances.

The money was to be loaned only upon property worth double the amount advanced, which was to be repaid in twelve years with interest at 5 per cent per annum. Yearly payments were to be made for the first ten years at the rate of £8, ten shillings and £7, ten shillings the last two years. Every possible precaution was taken to secure the payment of the money loaned with the interest. If the interest were not paid promptly, foreclosure proceedings were required to be instituted; but, while providing for the payment of the money loaned in this manner, the Legislature was careful to give the borrower full opportunity to secure himself against exigencies like ill health, or death, or other accident preventing him from paying. The bills of credit were made legal tender for the payment of taxes and of other debts. Severe penalties were imposed if any person should refuse to receive the bills in payment of debts due or for goods sold.

This was the first act passed at this session of the Legislature and was prepared with great care. The rights of all parties whose interests were involved were properly protected.

The first act having a direct reference to the subject of elections was passed at the session of the Legislature, in 1725. The qualifications of representatives and of electors had been settled by prior statutes passed as early as 1709. Writs had been issued by the Royal Governors for the election of representatives to the Sheriffs of the different counties, after such divisions of the province had been created. Prior to that time, the elections were held pursuant to proclamations made by officers deputed to perform that service, in different localities. But, by this act of 1725, positive directions were given as to the manner of holding elections and making returns. The title of the act is quite significant: "An Act for the better regulation of Elections, and laying a Penalty on all Officers and other Persons whatsoever that shall by indirect Practices endeavor to obtain any Election contrary to the right, and Liberties and Privileges of the People, and the true intent and meaning of this Act." Its main provisions were these: The writ for the election of representatives was directed to the Sheriffs of the respective counties who were required to give twenty days' notice of the time and place of the meeting of voters by hand bills posted in three of the most public places in the county, city or town. The Sheriff seems to have been the presiding officer at the polls, but a clerk and an inspector, nominated by each candidate, were appointed by him. The clerks were sworn to "take the poll fairly and indifferently by setting down the names of the electors and the places of their abode and the person they give their votes for." If the right of a voter were challenged an oath was administered, that he had been a resident of the county, city or town for one year, that the estate qualifying him to vote was his own proper estate, not conveyed to him in Trust, nor on condition that he should vote for any person. Quakers, instead of taking an oath, might affirm. If the Sheriff should be guilty of any violation of the law, he was to be fined £300. Bribery and corruption, in any form, directly or indirectly, were strictly forbidden, under severe penalties. The last clause of this act would serve an excellent purpose, if incorporated in modern legislation, and, if strictly enforced, would greatly purify elections and prevent the recurrence of many crimes.

"If any Person or Persons whatsoever, shall by assertion or false Report of any of the Candidates, either in Words or Message or Writing, or in any other manner, endeavor to frighten, or by indirect means perswade any Elector to give, or diswade any Elector from giv-

ing his vote for the choice of any Person to be a Member of the General Assembly of this Province" should forfeit £10.

A most singular act was introduced into this Legislature, but not passed. It deserves only slight notice, as it was not often that the House attempted legislation on such subjects as were intended to be reached by this statute. The Governor was much interested in discussions relating to religious dogmas and it is probable that the act was prepared by him. The title of this remarkable law was this: "An act against denying the Divinity of our Saviour Jesus Christ, the Doctrine of the blessed Trinity, the truth of the Holy Scriptures and spreading Atheistical books."

In 1727 Burnet was removed and appointed Governor of Massachusetts, but he left New Jersey with very great reluctance. A marriage into a wealthy and highly respectable Dutch family had introduced him into a large circle of the very best people in New York and this added to his desire to retain his relations with the two provinces. The people of the two colonies had learned to know him better and to appreciate his very excellent qualities and the attrition which, at first, marked his relations with the Legislature, gave way to a very cordial understanding, common to both.

He was succeeded by Col. John Montgomerie, a Scotchman, who had been a member of Parliament and an officer in the family of the King. These positions had brought him in contact with royalty and had secured the preferment for him. He took possession of the government in 1728. He had been a soldier earlier in life, but was averse from exertion and inclined to take as little responsibility as possible; in temperament, he was kind and gracious, and easily accessible. His term of office was short, being terminated by his death in 1731.

The long session of the Legislature convened by Burnet created an uneasiness in the minds of the colonists and an act was therefore introduced and passed which required that an Assembly should convene at least once in every three years and that the representatives should be elected triennially. This act however was rejected by the King in Council November 25, 1731.

A great injustice had been practiced in the criminal courts which had been the subject of controversy between the Assembly and some of the prior Governors. A Defendant, if indicted for an offence and acquitted, was obliged to pay costs. Suitors in the courts were relieved from this grievance by the provisions of a statute which enacted

that thereafter all accused persons who were not convicted should go free without the imposition of any fees.

An act was passed July 8, 1730, entitled "An act for securing the Freedom of Assemblies," the provisions of which were significant and were plainly intended to prevent an abuse which had crept into the official conditions of the province. The statute was drawn with great shrewdness and with the evident idea that it would meet with opposition from certain persons. The Preamble claimed that it might conduce to the welfare of the province if the members of the House of Representatives should act with Freedom "disregarding Self-interest or any private Views of their own, when put in Competition with the publick Good," and that the acceptance of any office of profit might influence their acts in legislative capacity, "but more especially since the Parliament of Great Britain have deemed it necessary on the like occasions: Therefore we, the House of Representatives of the Province of New Jersey, being desirous to follow so good an Example, do pray that it may be Enacted." The act provided that if any member of the Assembly, while he should continue such member, accepted an office of profit either from the king or governor, his election should be declared void and a writ for a new election should issue. It was further directed that any person who, by the laws of Great Britain, was declared to be disabled from sitting in the House of Commons, should also be disabled from sitting or voting in the House of Representatives in New Jersey, and that if any such disabled person should be returned a member of the Assembly, his election should be void to all intents and purposes whatsoever and if any such disabled person should sit or vote in the House of Representatives, he should pay a fine of £50. On the same day that this act was passed, another was enacted, entitled "An ACT imposing a Duty on Persons convicted of heinous Crimes and to prevent poor and impotent Persons being imported into this Province of New Jersey; and for Amendment of the same relative to Servants." The preamble admits a fact already referred to about the selling of immigrants to pay their passage money. The act provides that all masters of vessels landing or bringing any persons convicted of certain crimes into the province should pay a duty of £5 on each immigrant before landing such convict and enter into bond with at least one good surety in the sum of £50 conditioned for his good behavior, for one year. Any convicted person or poor or impotent servant or passenger found within the province twelve months after being landed, might be

arrested by a Collector and carried before a magistrate and be examined. The examination was exceedingly strict and searching, its forms and subjects being prescribed by the statute. If found, on such examination, to be within the purview of the act, then, the duty of £5 was imposed on the immigrant himself, and he was obliged to give the bond for good behavior required from Masters of vessels.

On the same day that the last two acts were passed, a third one was enacted, referring to lotteries and for regulating "Pedlers." The following is the Preamble to the statute:

"WHEREAS the frequent use and practice of vending Goods and Merchandizes let in this Province by way of Lottery and Raffling, is very prejudicial to the fair and honest Traders in the same, and hath given Opportunity to ill minded Persons to cheat and defraud divers of the honest inhabitants thereof; which Persons, in order to put off their unsalable, and sometimes almost useless Wares and Merchandizes and for the Desire of unlawful Gain, have not only imposed on the said Inhabitants in the Quality of the Wares and Merchandizes, but also by setting extravagant Prices, on the same, to the great Impoverishment of this Province. Any Person vending or disposing or offering to vend or dispose of any goods by way of Lottery, Raffling, Balloting, Voluntary Subscriptions, or by any other method, whatsoever, that shall depend upon or be determined by Lot or Chance, shall forfeit and pay double the Value of such Goods."

All peddlers were required to obtain a recommendation of the Justices of the Peace of the County where they dwelt, certifying their opinion of the honesty of the applicant, then, to obtain a license from the Governor, first giving bonds to the Clerk of the Court of Sessions, with one surety, at least, in any sum "according to the discretion of the said Justices in their Quarter Sessions, not exceeding £50 nor under £20" conditioned that the peddler should be of good behavior and should pay all taxes and duties. A certificate was given to the travelling merchant which he was obliged to carry with him. Any person not being qualified as aforesaid should forfeit the sum of £15, if travelling with a horse; if on foot, £10 and if a refusal should be made to produce the certificate, then, a forfeiture of 40 shillings. The act was not to extend to persons selling or exposing for sale any goods at the public market or fair, within the province, nor to hinder persons from transporting from town to town, or from house to house, any goods which were the growth, product or manufacture of New Jersey or of the neighboring province.

At the death of Montgomerie, the duties of Governor devolved upon Lewis Morris, then President of the Council, until August 1732, when William Cosby arrived in the province, duly commissioned, as Governor of New York and New Jersey.

Little is known of Governor Cosby; he was a civilian—had the title of Esquire appended to his name, which, in those times, denoted that its bearer was entitled to more than ordinary credit. He must have been a man of some action as he and the Legislature of New York were constantly at war; but there was very little attrition between him and the Assembly of New Jersey, although they did not always agree. A few acts were passed by the House during his time, some of which gave evidence that the popular branch of the Legislature was restive under the condition of affairs. An attempt was made to revive a statute passed by the House in 1728, but rejected by the King in 1731, which provided for more frequent meetings of the Legislature, for triennial elections and alternate sessions at Burlington and Amboy. The statute embodying these provisions was passed by the Assembly, agreed to by the Governor and Council, and again rejected by the King, and no reasons were given for their rejection.

The Assembly presented a representation to Cosby on the appointment of members of the Council. In this they stated that, in their opinion, the members of that body should be gentlemen of "credit, estate and abilities" and contantly resident with their families in New Jersey. Cosby was somewhat offended at this and showed his resentment, replying that no Governor would recommend any gentleman as as member of the Council who was not worthy of the position. With this exception and a complaint from Cosby that a sufficient provision had not been made for his support, the relations between him and the Assembly were amicable.

Cosby died in 1736 and the government devolved upon John Anderson the President of the Council. He, however, only remained in office for the short space of two weeks, then died and was succeeded by John Hamilton, son of Andrew Hamilton, formerly a governor under the Lords Proprietors, whose right to hold the office, it will be remembered, was questioned because he was not born in England. John Hamilton held the position for two years, when in 1738 Lewis Morris was appointed Governor of New Jersey only.

Prior to Cosby's time, as early certainly as 1728, the question of an independent government for New Jersey had been discussed. A peti-



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tion had been presented to the King by the Legislature of New Jersey asking for a severance from New York. Very serious complaints were made in this petition: That the Governor with his family resided in New York and that he only came to New Jersey at intervals; that his interests were all in the larger province; that he did not appoint officers from New Jersey, but selected them from citizens of New York; that the same persons filled offices in both provinces, but as New Jersey was deemed only a sort of dependency of New York, the smaller province was overlooked; that the officers holding these duplicate positions were derelict in the performance of their duties and thus occasioned very great delays and vexatious hindrances to executive and judicial business. The King, therefore, was requested when he appointed a new Governor, to select one who should serve in New Jersey alone, independent of New York. There was truth in these statements; glaring injustice had often been done by neglect and delay on the part of those holding positions in both provinces. But for several years the King disregarded the prayer of his subjects in America, although the Lords of Trade favored the measure and so reported to the Privy Council. The people were so much aroused that the Grand Jury presented a similar petition which received as little attention as that sent by the people.

Lewis Morris was one of the most noted characters in the Colonial history of New Jersey. He was, at one time, appointed second judge of the Supreme Court; but no record can be found that he ever took his seat on the bench. It is believed that he never did, for very soon after his appointment, he was made Chief Justice of New York and removed to that colony. He was a restless man, of great ability and always assumed the popular side in the quarrels between Lord Cornbury and his antagonists in New Jersey. He was a member of the Council which was appointed by Queen Anne for her cousin, when he became Governor. But Cornbury could not consent that so refractory a spirit should be a member of the board which had, in a measure, control over his movements. So, Morris was expelled, and Roger Mompesson appointed in his place. In the subsequent quarrels between the Royal Governor and the Assembly, Morris took a very prominent part. He was the author of the remonstrance sent to Queen Anne against Cornbury, and it can well be imagined that the expelled member of the Council did not spare the Governor. After his expulsion, he was returned a member of the Assembly and had ample opportunity

for revenging himself. The indictment against Cornbury which he presented to the Queen was a document of tremendous power, did not spare the Governor, nor did it fail to expose his meanness and his entire unfitness for the position of Governor.

When an infant, Lewis Morris had the misfortune to lose both of his parents, and was adopted by an uncle, who was unable to curb his wild spirit. He left home in early years, strayed away to Virginia, and led a sort of vagabond life; but, tiring of this, he returned to his home and soon afterward became a Judge of the Court of Common Right under the Proprietors. After his appointment as Chief Justice of New York, he remained many years in that province and then returned, when quite advanced in life, to New Jersey. At seventy years of age, he again became prominent in public affairs, though not greatly to his credit. He was made Governor; but his life during his term of office was more than inconsistent with that of his earlier days, when he embraced most enthusiastically the cause of the people; now, he became as strong an advocate of the rights of the Governor, insisted most vehemently upon all its prerogatives and quarreled constantly with the Assembly.

He was the grandfather of Lewis Morris, one of the signers of the Declaration of Independence and of that other most distinguished American, Governeur Morris, who contributed so much toward creating in European capitals a profound respect for the citizens of the new Republic.

He was not always as mindful of his own pecuniary interest as prudence would seem to dictate. Being, however, the possessor of ample means, derived from his uncle, he did not need to acquire more wealth. This uncle, who bore the same name, owned extensive iron works at what was then called Tintern Manor, but now known as Tinton Falls, in Shrewsbury township, Monmouth County. There were large quantities of iron ore known as "bog" ore found in the marshes and wet meadows in the vicinity of the manor, which yielded under the methods used in its reduction in those days, about forty per cent. of metallic iron. The land where this ore was found was first located by James Grover, one of the original Monmouth patentees. Grover sent to New England for millwrights, miners and mechanics, skilled in the erection and use of furnaces and other appliances for the reduction of iron ore. He associated a number of others with him in his enterprise and a furnace and other works were erected. But, very soon afterwards he and his

associates sold the property to Lewis Morris, who is described as being of the Island of Barbadoes. The deed was dated October 25, 1675, and conveyed 3540 acres of land. The trade which sprang up in consequence of the location of these works at Tinton Falls was of great benefit to East Jersey. Strange to say, quantities of the manufactured iron were exported to Pennsylvania, some of it went to Massachusetts and some to England. The usual price of a ton of this iron ore, in this country, was six dollars and fifty cents, and in England manufactured iron sold for £18 sterling. In 1680, a large number of white workmen and seventy negroes were employed at these works.

The attention of the public authorities was directed to this particular branch of industry and it was deemed of so much importance to the colony, that, in response to a petition presented by Col. Morris, the Legislature, on the 6th of April, 1676, by vote resolved "as touching Colonel Morris' request, the Deputies are willing the lands and works belonging properly to the Iron Works shall or may be rate-free for seven years, excepting in extraordinary cases, as war or the like."

These were the first mining operations in New Jersey; they were successfully followed by Col. Morris for several years, and he was enabled through them to add greatly to the material resources of the County of Monmouth, directly and to the whole province, indirectly. Large numbers of workmen were employed and additions of a most excellent character made to the population of the colony by the immigration of skilled mechanics.

Lewis Morris, the elder, settled, lived and died at what is now called Morrisania, at "his plantation over against Harlem." He died in 1691, sixteen years after his purchase of the iron works, which he devised to the Governor.

There were three persons with the name of Lewis Morris connected with the colonial history of New Jersey who must not be confounded. One was Lewis Morris, the uncle of the Governor; another of the same name was also a nephew of the elder Morris; he lived in Monmouth and was connected with the public affairs of that County, holding several offices, such as Judge of the County Courts, Sheriff and Commissioner of Highways. He was sometimes called Lewis Morris of Passage Point, and sometimes, Lewis Morris, jr.; the third was the Governor.

In 1714, Morris, afterwards Governor, petitioned the Lords of Trade, who had charge of colonial affairs, to encourage the iron interests of

New Jersey. This is the last mention of the Tinton Falls iron works, and that, it will be perceived, is merely incidental. But it is quite certain that prior to this date the works had ceased to be of any profit to the owner. Oldmixon, in 1708, referred to them, in this manner: "Between this town, (Shrewsbury) and Middletown is an iron works, but we do not understand it has been of any great benefit to the Proprietors."

Morris was a man of letters and took a deep interest in the promotion of learning in the province and delighted in the conversation and society of men of learning and ability. His literary capacity is manifested in the papers which emanated from him during the administration of Cornbury. Through these and his active antagonism to the Queen's cousin, he acquired the intense dislike of that nobleman, who, in his answer to the remonstrances of the Assembly, already referred to, charged that Morris and Samuel Jennings were the moving causes of all the difficulties between himself and the people.

Although careless in the management of his personal affairs, while he was acting as the friend of the people, he was alert and zealous in his attempts to serve the antagonists of Cornbury, and when he was made Governor no man who had filled that office was more industrious than he in the discharge of what he considered the duties of the position. There was, however, a great drawback to his industry, for however zealous he might be in his attention to public business, his doubts and discussions had the effect of delay in important matters which needed dispatch. This delay was, in some instances, not alone due to his propensity to debate, for, if his opponents had had the patience to permit him to exhaust himself, without reply, they could doubtless have succeeded in carrying their points. If met by obstinate debate in relation to any measure about which discussion could be properly entertained, he hesitated, doubted, debated, returned to the discussion, kept the Legislature in suspense and only yielded when absolute necessity required. This dilatory action led to frequent angry discussion which served to increase his natural obstinacy and occasioned the most absurd and unnecessary delays of several months at a time. This course of conduct added to apparent wilful contempt of the rights of the people, an overweaning fondness for self-assertion and a dogged maintenance of his power as Governor, drove the people from him.

His last will was most peculiar, covering several pages of manuscript. In it he gave a short autobiography, referred to an attempt

made to defraud him by an alleged pretended Will claimed to have been executed by his uncle, in favor of that uncle's wife, and which he asserted was contrary to an agreement previously made between his father and his uncle, the testator, and related facts and circumstances not usually inserted in wills.

He gave directions as to the kind of coffin in which he desired to be buried; forbade any rings or scarfs to be given out at the funeral, or that any one should be paid for preaching a funeral sermon over him. He gave the reason for this command in this quaint language: "For I shall die in a good old age and when the divine providence calls me hence, I die when I should die, and no relation of mine ought to mourn because I do so; but may perhaps mourn to pay the shop keeper for his goods, should they comply with (what I think) the common folly of such an expense." He directed that a vault of stone should be built near Morrisania, "where my good uncle lies buried" and that the remains of his relatives there interred should be gathered, put into coffins and placed within the vault, and then, he adds: "My executors may get a tombstone for me if they think fit."

But, notwithstanding his faults, Governor Morris did much for the colony, was patriotic in his motives and really desirous of promoting the very best interests of the colonists.

In his domestic relations he was admirable; being an indulgent parent, a kind husband and a good neighbor. He had a large family, all of whom became prosperously settled before the death of their father. An anecdote is related of him which shows the estimate placed by some of his opponents upon his wife. Joseph Cooper was a representative in the Assembly from Gloucester, a position which he held for nineteen years. He was a man of superior ability, great firmness of character and unswerving integrity. He had opposed the Governor but never when Morris was right. During one of the very tedious sessions of the Assembly, occasioned, perhaps, by some willfulness on the part of both the Governor and Legislature, Morris accidentally met Cooper in the street, and said to him: "Cooper, I wish you would go home and send your wife." "I will," replied the Deputy, "if the Governor will do the same by his."

The appointment of Morris met with the hearty approval of the great majority of the colonists. They remembered his active, enthusiastic efforts in their behalf during their controversy with Cornbury, and fully expected that he would continue to be their friend. They

were not only grateful to him for his past action, in their former vicissitudes, but they gave him especial thanks for the part he had taken in securing the severance of New Jersey from New York. They had chafed for many long years under the bond which had united the two provinces and now, relief had come at last, and they regarded him as their political savior from that evil. They were therefore prepared to meet him with open arms and generous hearts.

The gratitude of the colony was soon manifested in a direction which should have been pleasing to the new Governor. In 1739, the year after he became Governor, Morris County was set off from Hunterdon and the people, in remembrance of what they owed him, named the new County and its County Seat after him.

A change in the legislative functions was one result of the separation of the two provinces. Prior to that event, the Legislature, when convened, was composed of three branches: The Governor, the Council and the Assembly; the Council and the Assembly met apart, the one being presided over by the Chief Magistrate of the colony, the other by a Speaker chosen from among its own members. The style used in the enacting clause of all laws was: "*Be it enacted by the Governor, Council and General Assembly.*" This style was still preserved, but the Governor withdrew from the Council. Before this, he presided over that body, took part in its discussions; but, now, its presiding officer was a President elected like the Speaker, from its own members. It is true that the change was only one of form, the Governor still retaining the right of approving or rejecting all laws. But the Council was relieved from the presence of the Governor, was now free to discuss and could be more independent in its action. It removed the Governor from what might be and frequently were heated discussions, in which he must necessarily take part. By his removal from these scenes, he gained much in dignity, securing freedom from considerable criticism and from the labor of attending and presiding at the meetings.

It was under such circumstances that Lewis Morris began his administration. No man in the whole colonial history of New Jersey assumed the reins of government with fairer prospect of success or with the people more ready to accede to any just demands he might make on their generosity or their patriotism. He convened the Legislature to meet on the 27th of October, 1738. His speech was long, somewhat desultory, not equal to his abilities, self laudatory; he was evidently

desirous of impressing upon the minds of the members the debt of gratitude they owed him for past services and for what he might accomplish in the future. The Assembly met Morris with a most flattering manner, acknowledged the indebtedness of the colony to him, congratulated themselves that their Sovereign had blessed them with a Chief Magistrate whose wisdom, manifested in times of peril in the past, gave promise of his ability to carry them safely through any vicissitude in the future. They guarantied him their cheerful support and made pledges of a generous appropriation for the expenses of the government. In fulfillment of those pledges, they proceeded to settle his salary, which they fixed at £1000 per annum, for three years. They also allowed him £60 for house rent and gave him £500 to compensate him for his services in procuring the separation from New York.

With this evidence of the good faith of the Legislature and its intention to do its part toward promoting harmony between the Governor and the people, it would seem that he should have been equally desirous of maintaining the same harmonious relations and of aiding the Assembly in any attempt it should make towards preserving the rights of the people and of the colony. But, most unhappily for all parties, Morris saw fit to precipitate a state of affairs which ended in a total withdrawal by the Assembly of its confidence in him, and finally resulted in a disruption of all amicable relations.

The Legislature very naturally assumed that the time had now arrived when it could secure the adoption of certain measures for which they had been contending for years. A Bill was introduced to secure regularity in the elections and sessions of the General Assembly. Twice before, this act had been passed by the Assembly and had received the concurrence of both Governor and Council. It was the act which provided for more frequent elections and sessions of the Legislature. Other acts were also introduced, regulating the practice of the law and for recording Deeds in the several Counties. The Governor was also requested to establish a table of fees so that they might be regulated by law. These acts were passed by both the Assembly and Council but the Governor refused his assent. His reply to the application for the settling of fees was rather ungracious. He said he would consult with his Council and do what was reasonable therein.

The salary he received was double that allowed to any former Governor, yet he went to the extremity of forbidding the treasurer to pay the Deputies their wages although they were legally entitled thereto.

The Assembly became conscious, at last, that the pronounced friend of the people in Cornbury's time, was not disposed to act as such in the time of Lewis Morris. It remonstrated with him on the impropriety of his conduct; he set up his right, as a component part of the Legislature, to oppose his veto to their votes and insisted in a very peremptory manner on his gubernatorial privileges. He harassed the General Assembly by frequent adjournments, by constant discussions, by his opinionated views and discourses on the theory of government, and, at last, dissolved the Legislature. An instance of his method of treating the House occurred on a memorable occasion, when harshness of manner was certainly uncalled for. War had been declared between Great Britain and Spain. The colonies of North America were called upon to render assistance to the mother country. New Jersey promptly responded, passed at once a bill for raising clothing and victualling her quota of troops. Some of the minutiae of the act were unsatisfactory to Governor Morris and he delayed approval of the whole statute, without particularizing the parts of which he disapproved. The business of the session was accomplished and it only remained for the Governor to approve or veto this particular bill. The Assembly applied to Morris, in a respectful manner, and asked him to finish the business and permit them to return to their homes. His harsh and unfeeling reply was in these words: "When I see fit." He kept the members in this suspense, with nothing to do, naturally anxious to return to their families, for six days and then, approved the measure.

Finally, he dissolved the Legislature on the 15th of March, 1739, but before doing so, he addressed them reviewing their action, especially with regard to the bill providing for the support of the government. His speech was harsh, imperious and calculated to arouse feelings of great indignation in the minds of his hearers.

All this created the greatest discontent in the Deputies and Council, in which the people soon shared, and Lewis Morris, from having been the most popular man in the province, became the most hated of the royal Governors, except Cornbury.

The next session of the Legislature was held on the 10th day of April, 1740, when Gov. Morris, as usual, addressed the Assembly. His speech was exceedingly inconsiderate and calculated to still more exasperate the Deputies who were always at fever heat in their opposition to him. They met this address with great spirit, upheld the conduct of the prior Legislature and reflected rather strongly on the conduct of



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the Governor, who, in his speech had hinted that the former Legislature had withheld action on certain acts which he was desirous of having passed, in the expectation that he might be coerced into a certain line of thought and policy. The Deputies, in their reply, met this as covertly as the hint had been made. There could be no misunderstanding, however, as they proceeded at once to pass the same laws which Morris had rejected. They went farther, and instead of asking him to regulate the fees, they enacted a statute by which they themselves established them. They also passed another law by which it was provided that no suit should be brought in the Supreme Court for a sum less than £15. Morris was opposed to this measure and also to that regulating fees and the Legislature knew it. Besides he was well aware that both these measures, if passed, would relieve the people from hardships; yet, he was of the opinion that it was good policy to extend rather than lessen the jurisdiction of the Supreme Court and to preserve to attorneys and others the right to collect fees as they were then fixed, so as to secure their influence. Another motive doubtless governed him; his son was chief justice of the Supreme Court, whose emoluments depended upon fees, and therefore he still refused his assent.

One of the laws passed by this Legislature related to the election of Deputies to the Legislature and to their more frequent sessions. By the two acts which had been passed triennial elections had been ordered, but by the new act, septennial elections were provided. Morris disapproved the act with the ungracious remark: "I do not take it to be a right you are entitled to, but a favor which a suitable conduct in you can only induce his Majesty to grant or me to recommend to his Royal consideration."

The breach between the Governor and the Legislature finally became so wide that it was impossible to close it. He continued his arbitrary conduct with more and more violence. The Legislature, at last, assumed the offensive and refused to pass any act providing for the payment of the Governor's salary until certain laws which they deemed important and necessary to relieve the people from injustice should receive the Governor's approval; one of these laws provided for the issuing of bills of credit, another related to the jurisdiction of the Supreme Court, and the third referred to the regulation of certain fees. Morris would consent to neither.

Bills of credit were a necessity to the business community, which had

no currency for circulation and required these bills in the ordinary transactions of trade.

The fees of the various Courts and officers were arbitrarily arranged; the Governor and Council had established them in the past, but they had been afterwards changed, though not lessened, by the Court and by usage. The payment of unnecessary costs caused great injustice and the Governor and Council were now requested to aid in relieving the people, but Morris refused. Three Legislatures, sitting from October, 1743 to April, 1745, had been dissolved after distinctly declaring that they would not pass any law providing for the expenses of the government, unless these three bills were concurrent.

The Legislatures after 1744 pursued the same course, refusing to appropriate any money for the expenses of the government, until the bills were passed which they deemed so necessary. And there was no restoration of harmony between the Governor and the Legislature until just before his death. A partial compromise between the contending parties was then proposed, which, perhaps, might have been carried into effect had not the death of Mr. Morris occurred about that time. He died on the 21st of May, 1746, after an illness of about two years.

Although Morris had been so persistent in his opposition to certain acts, yet, there was considerable legislation during his administration and of an important character. On the 15th of March, 1738–9, an act entitled "An Act for regulating Taverns and Ordinaries, Inn Keepers and Retailers of strong Liquors" was passed; the preamble to which was as follows:

"WHEREAS the true and original Design of Taverns, Inns and Ordinaries, was for the accommodation of Strangers, Travellers and other Persons for the Benefit of Mens Meeting together for the Dispatch of Business and for the entertaining and refreshing of mankind in a reasonable manner and not for the Encouragement of Gaming, Tippling, Drunkenness and other Vices so much of late practised at such Places, to the great Scandal of Religion, the Dishonor of God and the impoverishing the Commonwealth; and WHEREAS the present prescribed Methods of granting Licenses for the Purposes aforesaid are insufficient to obtain the benefits hoped for; THEREFORE, to prevent as much as may be such Misfortunes and inconveniences for the future all persons retailing Liquors of every kind" were required to be licensed under penalty of 40 shillings for the first offense; for the second offense, £5. The license was granted by the Quarter Sessions,

in open meeting, on the recommendation in writing "of the Freeholders and neighbors to such person craving license and the applicant must enter into recognizance to the king with two sufficient sureties—freeholders—in £20." The condition of the Recognizance was this: That the applicant "shall not himself game nor suffer any Person to Game in his House for Money or the Value of Money but shall, during the said Time in all things respecting him as a Public House keeper or Inn keeper use and maintain good Order and Rule and find and provide good and sufficient entertainment for men and provision for Horses." If the Justices should grant a license contrary to the true intent and meaning of the act each of them should forfeit the sum of £10; 6 shillings were to be paid for the license; 3 shillings and 6 pence to the Clerk. No Under Sheriff or Jail keeper was permitted to have a license and if those officers should sell any liquors or suffer them to be sold in the jail, a forfeiture of 20 shillings was imposed. The Clerk was required to give a list of the licenses to the Constables of the County, who were commanded to make "diligent Search and inquire in all the different parts of the City, Township, County, District or Precinct for which he or they are chosen for and of all such persons as shall presume to sell and retail strong liquors contrary to the true Intent and Meaning of this Act." And if any were found violating the act, the Constables were directed to proceed against him. The Constables of the County were required four times every year to visit the Taverns and other places where liquor was sold and if any "enormities" were discovered, they were required to report the same to the Justices at their Sessions. The licenses were to continue for one year and any renewal was to be in open court upon the same terms and conditions as were provided for the original granting. If the keepers of places where liquor was sold were to entertain, entice, harbor or keep any Apprentice, white Servant, Indian, Mulatto or Negro, he should forfeit for the first offense the sum of 20 shillings and for the second offense 40 shillings and for every subsequent offense, £5. The law provided for the establishment of prices by the court of Quarter Sessions for liquors, or food, or provender, sold to the traveller. If the tavern keeper permitted persons to misspend their time and substance at the taverns or should supply them with liquor "simple or mixed, more than is absolutely necessary for his or her refreshment," upon conviction, he should pay for the first offense 20 shillings, for the second 40 shillings and for every one thereafter, £5. No tavern keeper should credit

a customer above 10 shillings; if they did, they lost their money and were debarred from sueing or recovering it, nor could they take a bill or bond or any security for any liquors sold by them or drank at their inns amounting to above 10 shillings. If the tavern keeper took any bill or other security for liquors sold and drank at their houses contrary to the act under pretence of selling victuals, pipes, tobacco, or any other thing with the intent of evading the act, they were rendered incapable of recovering any amount of the security. Assessors were required to assess each tavern keeper yearly a sum not less than 40 shillings nor more than £3, for the support of the poor.

On March 15, 1738, an act was passed entitled, "An Act to restrain extravagant and excessive interest," of which this was the preamble:

"WHEREAS the great and excessive interest now commonly taken in this Province is found to be a very great Discouragement to the Trade, and an Obstruction to the Settlement of the same, and beyond the interest taken in any of the other Colonies." The rate of interest was fixed at seven per cent. and any security which required a larger amount was declared void, both principal and interest being forfeited. Provision was made to prevent any fraud by way of incorporating in the security the amount of a sale of goods. The act was very full in this respect Scrivener's fees for brokage and writing were at the rate of 2 shillings and 6 pence for £100 and a proportion of it for a greater or less sum. One shilling fee was given for making or renewing a bond or the bill for the loan. £5 penalty was imposed for the breach of this part of the law.

On November 4, 1741, an Act was passed authorizing the Supreme Court to appoint Commissioners to take special bail and to administer oaths and affirmation.

On December 2, 1743, this act was passed: "An Act to encourage the direct Importation of Rum from the British Plantations in the West Indies and of such Wines as may be imported from the Places of their Growth, Product and Manufacture into the Eastern Province of New Jersey." The preamble to which was as follows:

"WHEREAS the direct Importation of Rum from the British Plantations in the West Indies and such Wines as may lawfully be imported into this Colony, from the Places of their Product and Manufacture, would not only very much contribute towards the increase of the Trade of this Colony, but would also be a means of supporting the Credit of the Currency Thereof, and be a further means of increasing the Inhabitants of the same."

Duties were levied upon rum or other distilled liquors not directly imported from the British West India Islands at the rate of one shilling per gallon, upon all wines, £4 per pipe, and so, in proportion of a larger or smaller quantity and these duties were to be paid before the landing of the goods. If the liquors were smuggled, they were all forfeited and were liable to be seized by any person by virtue of a warrant from any Justice of the Peace and any magistrate was required, upon request, to issue the warrant. All persons assisting in smuggling were required to pay double the value of the goods, "to be estimated and computed according to the market price that each respective commodity bears at the place where any such seizure shall be made."

A penalty of £5 was imposed upon any one who should interfere with Custom House Officers or any persons in the discharge of their duty under the Act.

On the 2nd of December, 1743, a law with this title was passed: "An Act subjecting Real Estate in the province of New Jersey to the Payment of Debts and directing the Sheriff in his Proceedings thereon." This act declared that all Real Estate of every kind should be liable to and chargeable with just debts whether due to the king or to any of his subjects, and "are hereby made chattels for the satisfaction thereof in like Manner as Personal Estates within this Province are seized, and sold or disposed of, for the satisfaction of debts." The Sheriff was authorized by a writ of Fieri Facias first to seize the personal estate of the Defendant; if not sufficient, then he was to sell the Real Estate to satisfy the whole of the residue of the debt. The sale was to be advertised two months in the city, town or precinct where the land was situate and in three or more public places in the County. The sale was to be made between 12 M. and 5 P. M. The Defendant was permitted to choose what part should be sold first. After the sale, the Sheriff was directed to make a deed to the purchaser, who, by virtue thereof should hold as good an estate in the premises sold as the Defendant had at the time of sale.

The first execution, if there were more than one judgment by virtue of which the levy was made, had the prior lien.

The following is a clause of the act which is partly quoted, "That if any Judgment by Virtue of which such sale shall be made as aforesaid, ... shall happen to be reversed for error, yet the same Reversal shall not be given in Evidence or be enforced against any bona fide Purchaser, but the Purchaser, his Heirs, Executors, Admin-

istrators or Assigns shall hold lands or other Thing so bona fide purchased notwithstanding a Reversal of the Judgment after his Purchase, and such Reversal shall only operate against the Plaintiff, his Heirs, Executors and Administrators, to compel him or them to restore the value to the Defendant for what he lost."

There was other legislation of an important character during the administration of Lewis Morris which will only be noticed by a mere reference to the titles of the acts—Authorizing attachments against absconding debtors; providing for the recovery of legacies and for affirming acts of administrators bona fide done before notice of the will; for the settlement of the poor; for the proper method of acknowledging deeds and "declaring how an estate or right of a Feme Covert may be conveyed or extinguished"; for the "relief of poor, distressed prisoners for debt;"—this act was passed the 17th day of November, 1743, and extended to persons "being in prison upon the first day of December, 1743, or who should be committed afterward, during the space of five years"; to create courts for the trial of small causes; this conferred jurisdiction on Justices of the Peace over suits when the debt or demand was under the "real value of Five pounds", except in special cases; for regulating the militia of the province for the "repelling Invasion and Suppressing Insurrections and Rebellions"; and one to "annex part of the County of Essex to the County of Somerset and to ascertain the Bounds thereof."

The salary of Governor Morris for nearly two years before his death, remained unpaid and after that event his widow made application to the Legislature for its payment. But the Assembly rejected the claim. She then presented her petition to the Lords of Trade who instructed Gov. Belcher to recommend to the Legislature the payment of Mrs. Morris's claim. But the House still persisted in its refusal and when further urged by Belcher, replied that they had Gov. Morris's own opinion expressed upon a similar claim, to justify them in their action They then referred to the case of Lord Cornbury, in which, Morris, when a member of the House, had decided, under almost precisely the same circumstances, that he could have no just right to payment of any salary. They further added that the claim was "so universally disliked in the colony that there is none except those who are immediately concerned in point of interest or particularly influenced by those who are, will say any word in its favor."

Morris was succeeded by John Hamilton, who was entitled to the

office by virtue of his being the senior member of the Council. He is sometimes called President, presumably because of his being the presiding officer of that body. At the time he thus succeeded to the position of Chief Magistrate of New Jersey, he was in exceedingly precarious health and only survived his accession to the office for about a year. He had a large experience in the public affairs of the colony, having been a member of the Council continuously from 1713 until the death of Morris. He was, at one time, as has already been stated, Governor of the province, having succeeded Cosby in 1736. He then held the position for about two years, until Morris was appointed, when he returned to the Council.

A very important public measure was inaugurated during his administration; the chartering of the "COLLEGE of NEW JERSEY," or, as it is sometimes called, "NASSAU HALL." The name by which this venerable institution was chartered, was, *The College of New Jersey.* Governor Belcher, who was greatly interested in it, called the original first building NASSAU HALL, in honor of William the Third. A Charter had been previously applied for, but the application had been denied. The persons who presented the petition were Presbyterians, and it was understood that the Institution was to be distinctively under the rule of that denomination. The college undoubtedly had its origin in the intense desire of the educated people of the province for more and better appliances for training their young people and especially in preparing ministers for the performance of their duties, but its actual beginning was hastened by an event which happened at Yale College. David Brainerd, afterwards the great Indian missionary, was expelled from that Institution, and the authorities refused to reinstate him, although the Rev. Aaron Burr, a distinguished Divine and the son-in law of Jonathan Edwards, with many other equally distinguished gentlemen, interested himself in behalf of the erring youth. This led to a disruption of ecclesiastical relations, but young Brainerd was ordained and the College of New Jersey was founded. Its real place of birth was Elizabeth Town and the celebrated Jonathan Dickinson became its first President, but almost immediately after its formation, Dickinson died, and there was a virtual collapse of the enterprise. The Rev. Aaron Burr, D.D., already mentioned, was the pastor of the First Presbyterian Church at Newark, and like Dickinson and many other clergymen of his time, conducted a classical school in connection with his pastorate. The students, eight

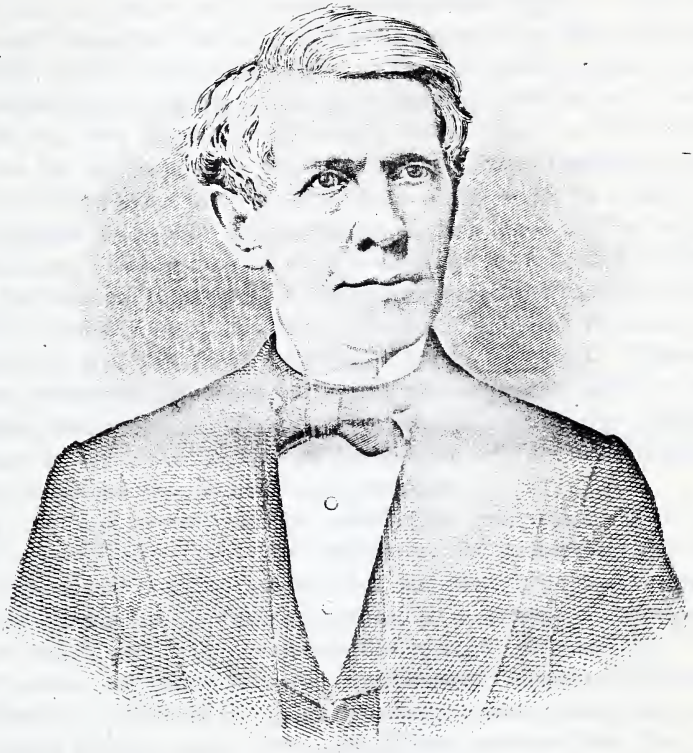
in number, were removed from Elizabeth Town to Newark and placed under the charge of Dr. Burr. This was in October, 1747, a few months after the arrival of Jonathan Belcher, who succeeded Hamilton. The new Governor took a deep interest in the institution and proposed its resuscitation. The old charter had never been filed; a new one was prepared by Belcher, himself, regranted by him in September, 1748, and on the 9th day of November of the same year, at a meeting of the Trustees held at Newark, presided over by Governor Belcher as President, *ex-officio;* Dr. Burr was elected President. The first commencement took place the same day, when six graduates received their diplomas and the first honorary degree ever granted by the college was given to Gov. Belcher. Among these six graduates were Richard Stockton, afterwards with John Witherspoon, President of the college, a signer of the Declaration of Independence; the others became clergymen.

The college remained at Newark for eight years under the lead of Dr. Burr and was then removed to Princeton, where it has since remained. There are only three Colleges in the United States older than Princeton; Harvard, William and Mary, and Yale.

Hamilton was an Episcopalian, but a broad minded man with no bigotry nor religious prejudice and he readily granted the charter. Objections were at first made, in certain directions, as to the legality of his action. But the objections never assumed any practical shape and the College of New Jersey began its wonderful career of usefulness. It has sent forth from its walls, fully equipped for their life work, divines, statesmen, jurists, professors, authors, scholars and men to adorn all classes of society. It stands second to no other Institution in the land and has secured the admiring estimate of men of learning all over the world.

Hamilton, earlier in his career, had invented a plan for the establishment of a Post Office system in America. A patent was granted him for this, in 1694, but he never put his plan into practical operation. The government, however, bought his right under the patent, giving him a suitable compensation.

About this time the long drawn out controversy between the inhabitants of some of the towns in East Jersey with the Lords Proprietors came to a climax. That controversy began as early as 1670 and some reference has already been made to it. The Proprietors claimed from the colonists payment of a quit rent of a halfpenny per acre. This payment was strongly resisted by the plucky colonists. Philip Car-



Engd by A. H. Ritchie

David Thompson

teret, the first proprietary Governor, had made himself peculiarly obnoxious to the people, had been obliged to flee the country, and finally to relinquish many of his claims. The proprietors were, at first, puzzled to find a tribunal which could enforce their rights. The courts were few and those that did exist had been created by the people and were entirely under popular influence. The Governor, under the Proprietors, undertook to establish courts by his own volition and to officer them with his own creatures, all totally subservient to his will and obedient to his commands. These courts, in some instances, issued warrants, arrested some of those who were claimed to be violators of law, pronounced judgment, attempted to impose fines and to imprison the defendants. The convicted were locked up in jail; the indignant populace broke open the doors of the prisons and released the prisoners. Riots ensued, outrages were committed, general discontent obtained and real and substantial damages were the result. Ejectment suits were instituted, the defendants refused to appear, plead or make any defence, and when the Sheriff attempted to enforce the judgment of the court by writ, the parties in possession of the land defied the officer and retained their houses and premises.

During the controversy, which lasted two generations and more, books of record, both town and legislative, were missing and grave charges were made that the loss was not accidental, but was caused by actual theft committed by those personally interested in matters the records of which would be positive proof in legal proceedings. Some of these books contained surveys, establishing beyond controversy, certain lines and boundaries. Countercharges were made, the names of the alleged thieves were given, and it was asserted that they were in the pay and interest of the Lords Proprietors. It was not a contest for a few feet or a few acres of land, but, it was claimed, that it affected the great majority of the titles held by the whole body of the people and it was a fight between all of the colonists on one side and the Proprietors on the other. All classes were drawn into the controversy; the ministers preached from their pulpits resistance to oppression, or obedience to the laws, as their inclination or interest dictated. Many of them became litigants in the courts, Plaintiffs or Defendants, as the case might be. Society was demoralized, law and order were put at defiance, and advantage was taken of the general disturbance by rogues and rascals, to commit crimes, under pretences which would have received no attention in ordinary times. This con-

dition of affairs became intolerable and the Proprietors determined to invoke the aid of the Court of Chancery. Such was the origin of the cause, begun by what is known as the celebrated Elizabeth Town Bill in Chancery. This document was the most extraordinary pleading ever filed in any court of justice. It was prepared by James Alexander, the father of the Earl of Sterling, of Revolutionary fame, and Joseph Murray was his associate counsel. These gentlemen were both eminent lawyers with long years of experience in their profession. When printed, the Bill occupied seventy-eight double columned pages of folio volume, to which were annexed three maps and several lengthy schedules. Such full reference was made to the colonial history of New Jersey prior to its filing, that historians have drawn largely from its pages. In this respect, it is invaluable, as it is in the main, correct in its historical statements. The parties Complainants are the Lords Proprietors of the Eastern Division of New Jersey; the parties Defendants are those who held land in East New Jersey adversely to the claim of the Proprietors. The Bill is addressed to "his Excellency, Lewis Morris, Esq., Captain General and Governor in Chief of the Province of New Jersey, and Territories therein depending in America, and Vice Admiral in the same; In Chancery humbly complaining." The Bill was filed the 13th day of April, 1745, but was not answered by any document filed in the Court until 1751. The answer was prepared by William Livingston and Richard Smith, Jr.,[1] two young lawyers who had, in spite of their youth, established reputations for ability.

The town meeting of Elizabeth Town had assumed the quarrel for the Defendants and that body was called together Aug. 27, 1751, to hear the answer read; it was read to the citizens then assembled and placed on the files of the Court a few days afterwards. On its face, this document is the answer of 449 land owners and residents of Elizabeth Town and vicinity.

It was charged that Governor Morris had assumed the office of Chancellor without proper authority, and if he had survived, it is probable that an objection to his jurisdiction would have been interjected into the cause. Undoubtedly, if Morris had had any opportunity to hear the case, he would have decided for the Complainants, as his interests

[1] A local historian, Rev. Dr. Hatfield, states that this Richard Smith wrote the history of the province and afterwards became Chief Justice of Canada, but this is an error; Samuel Smith, a Merchant of Burlington and Philadelphia, wrote the history of New Jersey and William Smith that of New York. William Smith, at one time, was Chief Justice of New York and after the Revolution became Chief Justice of Canada.

and prejudices were with them. But he did not live long enough to adjudicate on the rights of the parties and the suit was never settled.

Jonathan Belcher, who became Governor after Morris's death, was a strict Puritan, had been living in Massachusetts and fully sympathized with the Defendants in their antagonism to the Proprietors, and it was well understood that his prepossessions were so strong for the people that the Proprietors would have no possible chance for success before him. James Alexander, the leading Counsel for the Complainants, died on the 2d day of April, 1756, and exactly a year afterwards, Joseph Murray, his associate, died. The French War very soon occupied the attention of the Colonists and the troubles with the mother country came in with all their conflicting interests, followed by the War of the Revolution, and nothing more was heard of the famous Elizabeth Town Bill in Chancery. The antagonists of the Lords Proprietors, whether right or wrong, succeeded in sustaining their claims

There was a state of affairs existing in North America which affected the colony of New Jersey to such an extent that it ought be noticed. In the spring of 1744, war had been declared by France against England. The New England colonies had suffered greatly from covert injuries inflicted by the French residents of Canada. The treaty of Utrecht had not restrained the French from stirring up the Indians to annoy and massacre the English. Massachusetts and her sister provinces in New England, stimulated by this past history of the injuries inflcted by their neighbors, entered eagerly into the contest, raised men, donated large sums of money and finally gathered a land and naval force to besiege Louisberg, then considered inpregnable. The French had spent twenty years of time and 30 millions of livres in fortifying this important fortress, the key to the possessions of the French lying north of New England. The expedition was successful and Louisberg was taken on the 19th of June, 1745. The news of this conquest roused all France and vast exertions were made to subdue the English colonies in North America, especially those on the Atlantic coast. New Jersey was included in the contemplated attack and her government and people fully awaked to the danger of the situation. A large fleet sailed from France with 3000 troops on board, but it was shattered by a storm and demoralized by many other disasters. A part of the plan was a junction with more ships of the line from the West Indies and an addition of a land force of 2000 Canadians and Indians. Preparations were made by the Legislature and people to aid in repelling this force.

Troops were enlisted, laws passed authorizing the issuance of bills of credit, and stores of victual, clothing and ammunition provided. Fortunately the two belligerents came to terms and peace was declared, articles being signed at Aix-la-Chapelle, in April, 1748.

Common justice, independent of all other considerations, should have induced the mother country to have remembered her colonies in the treaty. They had nobly come to her rescue in her extremity; they had sent their bravest and best to the siege of Louisberg; hundreds of her staunchest men had perished in battle and an enormous sum of money had been expended in furthering the interests of England. The British were properly chargeable with wicked inactivity and had suffered the colonists to assume all the risks of the contest on the Western Continent. The New England people rightly believed that Cape Breton, instead of being surrendered to the French as it was, by the treaty, should have been annexed, as an English province, to its possessions in North America and that the colonists should have been fully reimbursed for their expenses. But, in the terms of the treaty, the American Colonists were entirely ignored. About $900,000 was divided among the four colonies of New England, Massachusetts receiving the largest share and New Hampshire only $10,000, the other colonies getting nothing. The people were becoming restive under the selfish indifference of a country which recognized no duty due from her to her children in another continent, but demanded so much. This selfishness, this wicked indifference, was preparing the way for the final disruption between England and her North American subjects and all this was remembered when, a few years afterwards, the colonies declared themselves independent and hostilities began between them and the parent country.

Hamilton, who followed Morris, died in the summer of 1747 and John Reading, the next oldest Councillor, took his place. Reading was an old man and reluctantly assumed the duties of the position. He was very soon superseded by Jonathan Belcher, who having been appointed by the king, published his commission some time in August, 1747.

John Hamilton invented a scheme for establishing post offices in America, and, about 1694, obtained a patent from the crown for his invention, but he never put his scheme into practical operation, the government having purchased it for a consideration.

Jonathan Belcher was born at Cambridge, Mass., in 1681, and was the son of Andrew Belcher, a merchant and a man of great wealth, who

gave his son all the opportunities for acquiring an education that the country, at that time, afforded. He graduated with honor from Harvard College, at an early age and afterwards spent six months abroad, improving himself by travel. While in Europe, the ample fortune of his father and the influence of friends procured admission for him into the very best society. After being presented at court, he returned to his native country and engaged in business. In 1729, he was appointed Governor of Massachusetts and New Hampshire, which position he retained for eleven years. While quite a youth, he became a devout Christian, severely, though sincerely, puritanical in his views, and when George Whitfield visited North America, in 1741, he was one of his most ardent supporters. After a short visit to England, in 1747, he returned with his appointment as Governor of New Jersey, and came to New York, landing there on August the 8th, 1747. Two days afterwards, he published his commission at Amboy, then the seat of government of the colony. On the 20th of the same month he met the Legislature at Burlington and became, for a short time, a citizen of that town, living, at first, with a Quaker named Richard Smith, and then, in his own house. He was much pleased with the town and surrounding country, with its soil and climate, but his pious soul was sorely tried by the irreverent manner in which the people observed the Sabbath. There were only two places of religious worship in the town—one Episcopalian, and the other, Quaker. He tried both, but was exceedingly dissatisfied and longed for the old ways and customs of his own church. To obtain these, he frequently drove with his coach and four to Philadelphia, twenty miles distant. But his conscientious scruples against this apparent desecration of the Sabbath, led him to abandon the effort to worship with those who shared his religious views. He removed to Elizabeth Town in 1751 and changed the seat of government from Amboy to that place. While attending the commencement exercises of the College of New Jersey, at Newark, in September, 1750, he was seized with a stroke of paralysis from which he never entirely recovered, but continued to exercise the functions of Governor until his death, August 31st, 1757.

Governor Belcher was remarkable for personal dignity and grace of manner, which he retained to the last. He was a scholar, largely interested in educational matters and a firm and fast friend of the College of New Jersey, upon which he bestowed many benefactions. The Rev. Dr. Aaron Burr, who died just twenty days afterwards, preached his

funeral sermon to a very large congregation in the Presbyterian Church. He eulogized the deceased in the very highest terms, speaking of him as "the scholar, the accomplished gentleman and the true Christian," and referred to his unshaken integrity and uprightness, his zeal for justice, his proof against all kinds of corruption and bribery, his distinguished and unaffected piety and his sacred regard for the Lord's day. He was an excellent Governor and died universally regretted.

The death of Governor Belcher again promoted John Reading from the Council Chamber to the Gubernatorial chair. He, at first, refused to accept the office, but finally consented and served until the arrival, in June, 1756, of Francis Bernard, with the commission of Governor from the king. Bernard only remained in office for about two years and was then removed to Massachusetts and became the Chief Magistrate of that colony. He was succeeded by Thomas Boone, who was about a year in office, when he was transferred to South Carolina. Josiah Hardy followed Boone, but his term was still shorter than his predecessor's, as he was soon made Consul at Cadiz, in Spain. Hardy was succeeded by William Franklin, the last royal Governor of New Jersey, who was the son of Benjamin Franklin and had been educated by his father with the greatest care; but, under the influence of the ministry of England, he had become imbued with prejudice against the colonists and finally, when the struggle came, resulting in the independence of the colonies, he espoused the royalist cause, to his father's intense grief and indignation.

In Governor Belcher's time the three acts, mentioned before, which Morris had refused to approve, were passed without any objection whatever. They were these: One obliging Sheriffs to enter into bond with sufficient sureties, conditioned for the faithful performance of their duty; one to prevent actions of £15 and under being brought in the Supreme Court; and the other fixed the amount of the fees and costs for services performed by all the officers of the Government from Governor down to the criers in the several courts.

On November 23, 1723, an ordinance had been published by Governor Burnet, for regulating the fees of all these various offices, but, serious abuses had crept into the practice of the courts, to the very great discontent of the people, and this new law was demanded almost by public outcry. The act did not very materially alter Burnet's ordinance, but it virtually annulled it. By its terms its operation was suspended until the King's assent should be given thereto, which was done in Council, November 23, 1749.

There was a large amount of important legislation during Belcher's administration; among the acts were the following:

"An Act to pardon Persons guilty of Insurrections, Riots, Tumults and other Disorders raised and committed in this Province," passed February 17, 1747–8.

The act recites "That great Numbers of ill disposed Persons Inhabitants of this Province, had committed great and dangerous Insurrections, Riots and Disorders; and, in open Violation of the established Laws of the Land, had frequently and in a most audacious riotous Manner, assembled themselves together, broke open the Gaols of the several Counties of *Essex*, *Middlesex*, *Somerset*, *Hunterdon and Morris*, whereby they had rendered themselves obnoxious to grievous Punishment, Fines and Penalties," and that some of them "having for themselves and others conscious of their guilt by their Petitions to the House of Representatives, brought their supplications of the Governor on their behalf." By the terms of the act, a full and free pardon was granted.

"An Act for the better enabling of Creditors to recover their just Debts from Persons who absconded themselves."

The present attachment law of New Jersey is almost similar in its provisions to this.

An act to prevent lotteries and gambling and "to restrain the abuse of Horseracing within this Colony for the future."

An act for the revival of the act for the relief of poor distressed prisoners for debt.

An act to restrain tavernkeepers and others from selling liquor to servants and slaves and to prevent negroes and mulattos from hunting and carrying a gun on the Lord's day.

An act to prevent the exportation of merchantable flour to foreign markets.

An act continuing an act to prevent actions of £15 and under to be brought in the Supreme Court.

An act to prevent the exportation of provisions, and naval or warlike stores from New Jersey to Cape Breton or any other dominion settled by the subjects of the French king.

An act "more effectually to prevent the French from being supplied with provisions, naval and warlike stores from the colonies of New Jersey."

At the time of the passage of the last two laws England and France were at war.

The following statutes were passed in John Reading's time:

Several acts providing for the defense of the frontiers of the colony; the building of barracks; and preventing selling spirituous liquors to the soldiers.

These act were all passed during the same war.

These laws were passed in Bernard's time:

Further acts providing for the defence of the frontiers during the war with France.

An act empowering certain persons to purchase the claims of Indians to land in the colony.

An act to raise 1,000 effective volunteers.

These laws were passed in Thomas Boone's time:

An act to explain and fix in what money taxes should be paid.

An act to prevent the sale of tickets in lotteries "erected out of the province;" to enable three public lotteries to extend time for drawing until November, 1761–62–63.

These three lotteries were authorized by an act heretofore quoted, empowering certain persons to purchase claims of the Indians to lands in the colony.

These laws were passed in Josiah Hardy's time:

An act effectually to prevent horseracing and gaming in the province of New Jersey.

An act to postpone the drawing of the "Province Lottery."

An act to empower the trustees of the College of New Jersey to raise by lottery a sum of money for the use of that college.

Governor Bernard's influence upon the political situation, or upon any other interest of the colony was hardly perceptible. He had very little opportunity to make himself felt, as his administration lasted a little less than two years. He was an Englishman, of excellent ancestry, and of good education, having graduated at Oxford College. At the time of his appointment to the office of Governor of New Jersey, he was a proctor and solicitor practicing his profession at London.

He arrived at Amboy on the 14th of June, 1758, and on the 16th of the same month, two days afterwards, he proclaimed his commission with appropriate ceremonies. His reception by the people of his province was much more elaborate than that of any of his predecessors. It may be interesting to give a brief description of his inauguration. On



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the day when that event occurred he was escorted by his Council, the Mayor of the town and other civic authorities to the City Hall, where he proclaimed his appointment as Governor and his commission was read aloud in the presence of the people. The principal inhabitants and other persons of distinction were then presented, and these ceremonies were followed in the evening by various demonstrations of the citizens. The Mayor and city authorities waited upon the Governor the next day and made him an address, to which he replied in appropriate terms and assured them, "that he would embrace every opportunity to show his regard for the city of Perth Amboy."

Bernard had fine literary taste and great attainments, was fond of books and of study, especially of belles lettres. His memory was very retentive and it was one of his boasts that he could repeat all of Shakespeare's plays. These characteristics were fully shown by the patronage he gave to institutions of learning, especially Harvard College, to which when "Harvard Hall" was burnt, he made a handsome donation of volumes from his own library. When that edifice was rebuilt, his taste and judgment were consulted and it long remained an illustration of his idea of architectural beauty. As evidence of his acquirements in the dead languages, it is said that on his journey from Elizabeth Town to Burlington, he made a visit to Princeton College, where, among other demonstrations in his honor, he was greeted by one of the students with an address in Latin, to which "his Excellency returned an elegant and polite Latin answer, *extempore*."

Governor Bernard gave full credence to the revealed truths of Christianity and acknowledged its claims upon his heart and conscience. Although a member of the Church of England and strongly attached to its mode of worship, he never exhibited any prejudice against other denominations but was frequently a devout worshipper at their churches when circumstances prevented his attendance at the services of his own.

One important event, occurring during his administration in New Jersey, demonstrates the strength of his resources for government and his adaptability to meet the exigencies of a new and untried position. The Indian tribes in and near New Jersey were in a ferment and it was necessary that measures should be taken to quiet the restless savages. War was still existing between France and England and the alliance of the Indians was eagerly sought by both belligerents. Efforts were made to secure a conference with the aborigines near New Jersey, with-

in the reach of French influence, which were successful mainly through the activity of Bernard and a general conference was held at Easton, Pennsylvania, October 8, 1758, when the claims of the Indians were heard and discussed, attention was given to their complaints and grievances and an amicable adjustment of all differences was made. The result of all this was exceedingly advantageous to New Jersey. Bernard was prominent throughout the whole transaction and its success was undoubtedly due to his exertions.

In this most important affair Bernard manifested great aptitude for business, an alert shrewdness and an apparently intuitive knowledge of Indian character, which, under the circumstances, was wonderful in one who had had no practical acquaintance derived from actual contact with the savages.

The ceremonies accompanying the Council were exceedingly unique and interesting. There had been two or three conferences between commissioners appointed by the Legislature and representatives of the Indians, who first presented their claims and grievances at a meeting held in 1752, at Crosswicks. Another conference was held in the winter of 1757, at the same place. The Commissioners, on the part of the Legislature, consisted of six gentlemen, two from the Council and four from their own body; on the part of the Aborigines, thirty appeared representing eight different tribes. Another conference between the commissioners and the Indians was called by a proclamation issued by Governor Bernard, to be held at Burlington, August 7, 1758, at which, besides the Governor, there were present six members of the Council and three Commissioners, but only five Indians, representing as many tribes, attended. At this conference the Governor sitting, spoke as follows: "Brethren, as you are come from a long journey, through a wood full of briars; with this string I anoint your feet, and take away their soreness; with this string, I wipe the sweat from your bodies; with this string, I cleanse your eyes, ears and mouth that you may see, hear and speak clearly; and I particularly anoint your throat that every word you say may have a free passage from your heart; and with this string I bid you heartily welcome."

He then informed them that he would be glad to hear what they had to say; to which they replied that they would be ready in the afternoon, and then they thanked him for greeting them according to the customs of the fathers. In the afternoon the conference was resumed and then, the representative of the Munseys sitting, not being permitted to

stand until the Mingoian had spoken, first addressed the Governor. His address was short; he held a belt in his hand and committed his people to no course of conduct, but spoke in a conciliatory manner. Then a man of the Cayugas spoke, standing, for he was a Mingoian, one of the tribes which had conquered the Munseys. His address was longer than the first one; but, at the outset, he took care to inform the Governor that the Munseys were women and could not make treaties for themselves. He proposed a general Council to be held at the forks of the Delaware; and, like the Munsey, committed himself and his people to no particular line of conduct. At the end of his speech he delivered the belt he held in his hand to the Governor. This was of peculiar workmanship; on one side were the figures of three men in black wampum; on the other side there were four figures. The three represented three tribes, the Shawanese, Delawares and the Mingoians, and the four, the invited Councils of the Six Nations, which the speaker explained as meaning that the three tribes and the Six Nations were now united. On the next day they reassembled, when the Governor agreed to the proposition to meet at the forks of the Delaware, and again, at the close of his address, presented the representatives of the tribes with two belts.

In pursuance of their negotiations, a grand Council was held at Easton, October 8, 1758, at which were present the Governors of Pennsylvania and New Jersey with members of the Council of the respective legislatures of the two States. Nothing of importance was done until the 11th of the same month, when all the parties came together, fourteen different tribes of Indians being represented, with their women and children, five hundred and seven in all. There seems to have been some little discord at this interview, as the Seneca Chief arranged the belts and strings on the table intending to speak first, but, as soon as the company was in order, the Chief of the Delawares arose and desired that he might speak first. Governor Bernard then interfered and said that he desired to bid his brethren welcome, and he asked that he might speak first, for that purpose. The conferences were prolonged for several days, speeches were made on both sides, belts and wampum were freely exchanged and, at length, on the 20th of October, 1758, a treaty was concluded to the satisfaction of all parties, some punch and wine were drank and the grand council adjourned.

The new Governor called the Assembly together on the 25th of July, 1758, and on the next day, made his address, which was short, pointed

and patriotic. It was remarkable for what it did not contain. It must have been very refreshing for the members of the Assembly who had attended sessions prior to this, to listen to a speech from a new Governor which said not a word about raising money for his salary. This address did not even hint at that subject, but it did strongly and emphatically call upon the deputies to prepare for what seemed an impending attack upon the western frontier of New Jersey by the French and their savage allies, who had been ravaging Pennsylvania, burning, pillaging and destroying hamlets and villages, farm houses and improvements made by innocent settlers, and to these had added more dastardly outrages, in the murder of women and children. The answer to this address was delivered on the 27th of July.

Bernard's rule was received with cordial approbation by all classes and universal regret was shown for its early termination. In 1760, he was transferred to Massachusetts and his last address to the Legislature was made in March of that year, when he announced to them his approaching departure, expressed his regret at leaving the Colony and his thanks for their undivided support. The Assembly, in their reply, fully expressed their own sentiments and those of their constituents when they said: "Your Excellency's leaving this Government we esteem a public loss. Your general conduct will remain gratefully impressed on the minds of the people, who will ever consider themselves in a manner interested in your future ease and happiness."

There was no such unanimity between him and the authorities of Massachusetts as had characterized his intercourse with those of New Jersey. There were two political parties in Massachusetts; one aimed at curtailing the powers of the crown in the province, which they endeavored to accomplish by attacking the royal Governor and the officers appointed by him. The other party was loyal to the English throne striving to strengthen its authority, by affording all the support required to sustain the officers in the province acting under authority from England. Bernard, of course, affiliated with the latter and this led to antagonism between him and the opponents of royalty, composing the majority of the people of his new province. His cordial and efficient aid was undoubtedly given to all the measures of the English ministry, in their contests with the colonists, and this action was appreciated by the King who made him a Baronet, refusing to remove him, although urged to do so by a strong petition from the people. But Bernard, himself, relieved the colonists by requesting and

receiving removal from his position, and left his office and America at as early a moment as possible.

Some doggerel written in New Jersey in 1759, while he was Governor, and some published in Massachusetts, after his removal thither, will afford an idea of the different estimates made of him and also give specimens of the poetic ability and taste of the time. The Princeton students sang this in his praise:

> We sing great George upon the throne,
> And Amherst, great in arms;
> While *Bernard*, in their milder forms,
> Makes the royal virtues known.

Thus sings the New England poet of Bernard:

> And if such men are by God appointed,
> The Devil might be the Lord's anointed.

His oldest son remained in New England, espoused the colonial cause and died in 1809, in the West Indies. He was an eccentric character and lived for many years a hermit in a rude hut with his dog for his only companion. Governor Bernard left evidence of his ability as an author, in the shape of some Latin and Greek elegies which were printed in 1761, and, after his retirement from America, he wrote a few pamphlets on American subjects.

Thomas Boone, the successor of Bernard, came to Amboy from New York, reaching New Jersey, July 3, 1760. He was received with the same formal ceremonies which had greeted his immediate predecessor. Like Bernard, while at Princeton, on his way to Burlington, he was addressed in Latin by a college student. There is no record of his reply.

Little is known of this gentleman; his parentage and even the place of his birth cannot be stated with definiteness. It is supposed that he had been a resident of New Jersey prior to his appointment.

He met the Assembly for the first time, October 30, 1760. His speech, on that occasion, contained nothing of consequence, but he did not follow the example set by Governor Bernard. The Governor called the attention of the Assembly to the fact that the fund raised for the expenses of the government was exhausted. A laudatory reference to the virtues of Governor Bernard was made in this speech, which must have gratified the numerous friends of that gentleman.

His term of office was very short; news were received in New York

and made public, on the 18th of June, 1761, that Boone had been transferred to South Carolina on the preceding 14th of April and that Josiah Hardy was to be his successor. On the 7th of July, 1761, the Assembly presented their last address in which they expressed their high appreciation of his conduct as Governor, spoke of his administration as "not only unsullied, but publicly kind and benevolent, such an administration as yours demands our grateful acknowledgments." He left for his new government in December, 1761, and entered upon his duties there early in January, 1762, but did not succeed in Carolina and was recalled in May, 1764. He was a man of some humor, as several of his letters still preserved, written to Horatio Gates, afterwards a Major General in the colonial service, will show. He married in South Carolina, and writing afterwards, in 1767, to General Gates, with whom he was in constant correspondence, speaks of his family in this manner: "I hope to have an opportunity of presenting my *Yamasee squaw* to Mrs. Gates and the papooses when a little more civilized." He made no serious impression on the politics of the colony while in New Jersey. Two of his proclamations still remain; one, naming the 24th of October, 1760, as a day of thanksgiving, and the other forbidding any person to become a schoolmaster, after the year in which the proclamation was issued, without a license from him, granted on the certificate of two magistrates, who are especially directed not to issue such certificates without being fully satisfied of the qualifications of the candidates.

Prior to the appointment of Franklin as Governor, there had been a deep seated feeling of uneasiness which extended to all the thirteen colonies. Mutterings of discontent were heard all over the land. Some out-spoken voices protested with no uncertain sound. The uneasiness was fast increasing and rapidly verging into an outbreak of open rebellion. It did not begin with the Stamp Act, nor with the disregard of the rights of the colonists in being taxed without representation.

When the early settlers first came to America, they fled from oppression at home and fondly hoped that in this western world they would be permitted to live unmolested. In their fierce battle for mere existence, their contests with the savage wilderness and with the more savage Indian, they received no aid from the mother country and they asked for none. And when the territory in America, claimed by the English was threatened with invasion, these same colonists stepped manfully to the front, furnished men and money, and unassisted, repelled the invader. The English stood aloof; promised aid, but gave

none. The well appointed fleets of England were anchored, idle, in the home port, while the ill equipped vessels of the colonists were attacking forts and the lives of their bravest and best were sacrificed for an ungrateful monarch. This wicked supineness, this selfish indifference, of the English king and ministry, in neglecting to assist the struggling colonists, fighting for the preservation of British territory, was never forgotten. Promises unfulfilled, made in the most solemn manner, provoked in the minds of the thinking men of the colonies a doubt of the integrity of the mother country. What could be expected from a nation that suffered its own children to brave and dare so much in fighting its battles, without acknowledging their sacrifice or ever fulfilling its solemn promises of aid?

The colonies increased in population and launched out in mercantile and commercial enterprises, which betokened strength and energy, and suggested to the English that this people might become their rival in the near future. The British ministry also awaked to the consciousness that in this flourishing country might certainly be found a source of revenue, and set about devising measures to control the budding enterprises of their subjects in America, so as to divert any profit derived therefrom into the treasury of the kingdom The country occupied by the colonists had an immense seaboard, great rivers, fertile valleys and boundless timber lands. God and Nature seemed to have created this continent for the development of a mighty nation. With blind fatuity that destroyed the very source of expected wealth, the British Ministry instituted a series of measures which stung and maddened the citizens who breathed the free air of this great country, and finally drove them into rebellion.

In establishing the authority of the English Ministry in New Jersey, William Franklin, the son of one of the grandest patriots of those times, became a facile tool. It is difficult to understand why, with such an ancestry, he should so far have fallen short of the high destiny which he might have attained, but it is, perhaps, to be attributed to the mediocrity of his character and talents, which made him subservient to those whom he thought would be undoubted victors in the contest.

When he was appointed, great doubts were expressed in many quarters, of his ability to perform the duties of the position to which he was called. He was made Governor at a very critical period in the history of New Jersey. Although, in prior years, the colonists in that province had been loyal to the core, yet the time had now come when

that loyalty was shaken and, in the near future, was to be lost to the English King. A Governor of ability, of moderation, of firmness and of wisdom, might, perhaps, have achieved a different result. But Franklin did not possess the qualifications necessary to enable him to meet the stirring issues of the time.

There is great difficulty in arriving at the time and the place of his birth, nor is it known who was his mother. Very little can be learned of his early youth, although he was received into his father's family when about a year old, and was under his fostering care until he attained his majority. In his earlier years he showed quite a fondness for books, but, later, sought a military career, even going so far as to make an attempt, clandestinely, to enter the Naval service in a privateer. Before he was of age he received a commission in the forces raised by Pennsylvania, in the French war. His commission was for a subordinate office, but he soon rose to the rank of Captain. He served for a short time on the frontier and then, returning to Philadelphia, became an assistant to his father in his scientific experiments and professional work. For two years, from 1754 to 1756, he was in the general Post Office, of which the elder Franklin had the management, as Post Master General, and was also Clerk of the General Assembly. In June, 1757, his father went to London, having been appointed colonial agent in England, and Franklin went with him. The business, as well as the inclination of the elder Franklin, led him to make frequent journeys over the continent and through England and Scotland, on which occasions he was accompanied by his son, who thus acquired great social and mental improvement from the society and conversation of men of science and learning whom he was constantly meeting. In 1762 the University of Oxford conferred the degree of LL.D. upon Benjamin Franklin, and that of A. M. upon his son. It was in the same year that through the influence of Lord Bute, without any solicitation whatever from his father, William Franklin was appointed Governor of New Jersey. It is said that Lord Halifax, then Minister of American affairs, submitted him to a close examination, this being deemed necessary mainly on account of his having been born in the colony.

Franklin was commissioned Governor on the 9th day of September, 1762, and reached New Jersey, February 24, 1763, coming direct from England. He met the Legislature at Amboy for the first time, May 26, 1763, when Robert Ogden from Essex County, who had just been



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elected Speaker, was presented to him, and he was graciously pleased to recognize the appointment. At the same time he made an address to the Legislature, as was always usual with a new Governor. The speech was short, common place and suggested nothing of importance except the statement made by all prior Governors, with one notable exception, that it was desirable to make provision for the expenses of the Government, which included, of course, his own salary. He gave general promises of what his action would be, but distinctly avowed that he should at all times govern his course by his duty to his "Gracious Majesty." He was wise in one direction;—he gathered around him, as members of his Council, some of the wisest and best men of the province. Among them were Robert Hunter Morris, Chief Justice and Charles Read, Associate Justice of the Supreme Court of the province; David Ogden, an eminent lawyer of Essex County, and afterwards also, an Associate Justice of the same court; Samuel Smith, the first historian of New Jersey; Peter Kemble, a prominent citizen of Morris County and the Earl of Sterling, a Major General in the colonial army during the War of the Revolution. Subsequently, Richard Stockton, one of the signers of the Declaration of Independence, took the place of a deceased member, on the recommendation of the Governor Cortlandt Skinner, at one time Attorney General of the Colony, later on, also became a Councillor. Abler or more competent men never met together in a legislative body than was the Council during the whole of Franklin's administration. It was generally in accord with the other two branches of the Legislature, never evincing a captious spirit and never disagreeing with either, except in essential matters.

The second act of the Assembly, passed after the meeting with Franklin, was friendly and generous to him. It provided for the payment of a salary of £1200 to the Governor and £60 besides for his house rent. The first act related to those volunteers, during the French War, who had become disabled by wounds, and made provision for the payment of indemnities to many of them.

Franklin and the Assembly, as well as the Council, made frequent interchange of addresses. It was generally the case that some member of the Legislature was a Quaker and objection was frequently made by him to the style of the address; the matter was approved, but complaint was made of the manner. To the people of these modern times, whether Quakers or not, the objection would appear proper,

for the speeches were fulsome to the last degree and so continued, even after the trouble between the colonies and Great Britain had broken out into actual rebellion. They always began with this formula: "*We, his Majesty's loyal and dutiful subjects*" and the last speech made by the Legislature to the Governor which appears in the record of the Council, begins, as usual, with those words and besides, recognizes Franklin as the royal Governor and calls their address "the humble address of the Representatives of the Colony." But with all this apparent subservience all through the addresses within the last five or six years prior to the time the colonists proclaimed their freedom from the mother country, was to be found an unmistakable sentiment of sturdy independence and an undoubted adherence to the cause of liberty. In their expression of a determination to secure freedom from oppression there could be no mistake and it is plainly evident that Franklin so understood it. There was a party in both Council and Legislature, during the whole of Franklin's rule, who were loyalists and who sympathized with him in his adherence to the English crown. This party was not in the majority, but it was by no means insignificant. The Speaker of the Assembly, Cortlandt Skinner, did not hesitate, in 1775, when he presented the "*humble address*" of "his Majesty's loyal and dutiful subjects," which he had signed as Speaker, to declare that the speech "being different from my sentiments, I think it necessary thus publicly to declare it—a step I should not have taken had I been permitted to enter my dissent on the minutes of the House."

While many causes of complaint existed against the mother country, there were two which came to the front almost immediately after Franklin was made Governor. One was the Navigation Act, the other the Stamp Act. The first did not directly affect New Jersey. There were no ports to receive foreign commerce in that colony; Perth Amboy had sunk into utter insignificance as a port of entry and the bright hopes its founders had entertained of its becoming a rival to New York in commercial enterprise, were blasted. New Jersey was obliged to depend almost entirely upon New York and Philadelphia for its foreign trade. But that act did materially affect Boston and New York. All Massachusetts was ablaze, and the other colonies sympathized with her and spoke out in loud protest against the oppression perpetrated by the officers of the crown in attempting to enforce its provisions. Application was made to the Supreme Court of Massachusetts, for a process, called a "writ of assistance," to be issued enabling the officers of the

crown to search for what were alleged to be smuggled goods. The Court refused to issue the writ without argument. James Otis, who afterwards was a fiery leader in the rebellion against England, was Advocate General and it was his duty to appear, and argue the motion for the crown. He resigned his office and used his ability and his great store of legal information in opposing the motion. The warrants were issued, but never used. In the sequel to the contest over the Navigation Act, Bernard, former Governor of New Jersey, again appears. Pending the time between the application for the writ of assistance and the argument, Chief Justice Sewall died. It was known that he entertained grave doubts of the legality of authorizing a right of search. Hutchinson had been re-elected Governor, a member of the Governor's Council and Judge of Probate. Yet with all these honors, Bernard, with full knowledge that Hutchinson would grant the writ, appointed him to fill the vacancy caused by the death of Sewall. This action made Bernard still more obnoxious than he had already become and led finally to the attempt to displace him. In this controversy over the Navigation Act, New Jersey could take no active part, but its citizens were in full sympathy with the patriots of Massachusetts.

The origin of the Stamp Act has been much debated; it cannot now be stated definitely. It is however, quite certain that it had its germ of being in events which happened years prior to its enactment. Lord Bute had been driven from the ministry in 1763; he was succeeded by George Grenville. The new Prime Minister, early in 1764, pronounced in Parliament, these words: "*It may be proper to charge stamp duties on the colonies and plantations.*" They were few and apparently simple, but they were fatal to the British government and struck the death knell of its power over the colonies. But the idea of imposing a stamp did not originate with Mr. Grenville. In 1734, Governor Cosby proposed to the Legislature of New York, as a means of raising money to pay expenses of government, a duty on legal papers and on conveyances and deeds. The Assembly did not accept the proposition. If it had carried out the suggestion and passed a colonial stamp act, no one could have objected. Ten years later the first suggestion of the passage of such a law by Parliament was made by Lieut. Governor Clark, of New York, and in December, 1744, Governor Clinton, of that colony, wrote to the Duke of Newcastle that Clark had shown him two "*scheimes which had been sent him from England.*" It is probable therefore that the "scheimes" related generally to trade; the other was a suggestion

for "establishing by act of Parliament dutys upon stamp papers in all the British and American colonys." The Governor thereupon, in the same letter to the Duke of Newcastle, made a remark in language, which however faulty in orthography, was certainly very wise. "The people in North America" he says, "are quite strange to any duty, but such as they raise themselves and was such a scheim to take place without their knowledge, it might prove a dangerous consequence to his majesty's interest." Soon afterward the ministry began to make calculations on the amount which might be realized if a stamp act were to be put into operation in America. In July, 1763, Hugh McCulloh, a clerk connected with the Treasury department, presented a report by which he estimated that £60,000 sterling could be raised annually, in this way, from North America. This was after Grenville had become Premier and undoubtedly was in answer to his order, or that of some of his subordinates. He, however, was not satisfied with this result of the arithmetical calculation of his clerk, as he demanded £100,000.

In August, 1764, the Earl of Halifax mailed a circular to all of the royal governors in North America, directing them to transmit to him "a list of all instruments made use of in public transactions, land proceedings, grants, conveyances, securities of land or money, within your government, with proper and sufficient descriptions of the same; in order that, if Parliament should think proper to pursue the intention of the aforesaid resolution, they may thereby be enabled to carry it into execution in the most efficient and least burdensome manner." If Governor Franklin received one of these circulars, there is no evidence in the records of the proceedings of the Council that he disclosed it to those who immediately surrounded him. While all this was transpiring in England and the English ministry were, perhaps, imagining that the intended encroachments on the rights of the colonies were, in a measure, masked and that the people, at large, were in ignorance of this movement, there were sharp eyes and ears watching and listening, and however carefully such transactions might be hidden, they did not escape the notice of these sentinels. Each colony able to support such an officer, had its agent resident in London, whose business it was to obtain and transmit to the colonial authorities information of any important event transpiring there, which might affect their principals. At this time, Benjamin Franklin was the agent of New Jersey and it can well be imagined that no movement of the ministry or of any of the public authorities, which could in any wise affect the colonies

escaped his scrutiny. So, when knowledge came to these agents of the intention of the ministry to introduce this measure into Parliament, Grenville was told in the most unmistakable manner that the colonies would submit to no taxation which was not of their own creation. His reply was that he intended to carry the measure through that year, but that he thought it proper to submit it to the colonial Assemblies, so that they might, if they chose, suggest a different plan.

There were several reasons which impelled Grenville to urge this matter just at that time. The war with France had just closed, and its result was of the utmost advantage to England as well as to the colonies. All the possessions of France in the northern part of America became the property of Great Britain, and New England and the adjacent provinces were freed from the danger which before had been constantly imminent, from a foe so near and so persistent in its attempts upon the English settlements. In that war the British subjects in America had expended £3,000,000 sterling, had kept a standing army of 25,000 men constantly in the field, had sacrificed 30,000 of their young men and had equipped 400 privateers to prey upon French commerce. All this had shown the English ministry the vast resources of the American people. So, Grenville imagined, first: That the colonists would be grateful for their rescue from so relentless a foe and their deliverance from the dangers which had theretofore so constantly threatened them and that they would be willing to undergo still further sacrifice to aid the mother country which, he would have them believe, had proved so great a benefactor to them. Second: That he could relieve the pressing necessities of Great Britain arising from the long war in which it had been involved with its inveterate foe, by this tax on the colonies, and third: He hoped to secure a reputation for good financiering and gain the approval of his own ministry by so shaping measures as to provide for the support of the English. But, he little understood the temper of the American people. They comprehended, better than he, the real situation; they knew that the result of the war was due more to their exertions than to those of the mother country; they appreciated their own sacrifices and, better still, they estimated their just claims to freedom and the injustice of their oppressors. Feeling all this, they were determined to maintain their liberties at any cost. The colonial agents remonstrated against the iniquitous measure; members of parliament, better informed than the ministers, raised their voices in indignation against the proposed act; the colonists held meeting after meeting

and vehemently protested; and the legislatures of many of the colonies memorialized the House of Commons. Protests were in vain, remonstrances failed, notes of warning from their own members availed not; Grenville and his associates had determined that the measure should be passed and so, on the 22d of March, 1765, it was passed, in a full House of Commons, after a very spirited debate and hot opposition, by the large majority of 252, out of an aggregate of 366 votes and became a law. It can well be imagined with what indignation the news of the passage of the bill was received in the colonies. But when the stamps reached America, that indignation was increased and the manifestations of feeling all over the land were of a character which almost beggars description. In New Jersey, the demonstrations were not so violent as elsewhere, but the conduct of the people was such as to show beyond a doubt that they would not submit to the indignity. All classes agreed not to use the stamps and it seemed, for a time, as if business would be suspended. The action of the lawyers illustrates the position taken by the business men of the community. Frederick Smyth was then Chief Justice; he was a loyalist and was charged with being a candidate for the position of stamp distributor. Smyth was appointed chief justice in 1764 and the stamps arrived in the province the next year. A meeting of the bar was called in September, 1765, expressly to discuss the situation, and after a full presentation of the matter, it was unanimously resolved that they would use no stamps for any purpose. Of course, this action, if persisted in, would put an end to all legal business, but, it would also prevent any return being made to the home government for the sale of stamps. The lawyers persevered in their determination and resolutely refused to purchase a single stamp. The Chief Justice requested the members of the bar to confer with him on the day after their meeting. He denied in the most positive manner that he had sought the appointment of stamp distributor, or had accepted it. In fact, William Coxe had been appointed on the nomination of Benjamin Franklin. The ministry had resolved not to choose any of these officers from England, but to name them from responsible citizens in the colonies, on the nomination of the colonial agents. At his meeting with the members of the bar before referred to, the Chief Justice propounded several questions to them, among them, this:—Whether they would agree to purchase the stamps if they should arrive at a certain time; to which a negative was promptly given. He also asked for their opinion as to the payment of duties and

whether he was under any obligation to distribute the stamps. To this there was only one answer—that the duties could not be paid and that he was not obliged to aid in the delivery of the stamps. The Chief Justice acted on this advice and the result was that the Court was closed and remained so until the next April, when there was another meeting of the bar, at which the conclusion was reached that they would resume business, use no stamps and abide by the result.

The stamps intended for New Jersey were never landed; the opposition against the measure was so pronounced that the English Captain, Hawker, who had the papers on board of his vessel, did not dare take them on shore.

The Governor called his Council together on the 6th of November, 1765, for the purpose of consulting as to the proper method to be pursued under the condition of affairs in the colony arising from the threatening aspect of the people. Six Councilmen were present; the four absent members sent apologies, one of whom, Lord Sterling, gave his opinion in full and presented his advice to the Governor. Franklin had some correspondence which he presented to the Council, letters from Governor Colden, Captain Kennedy and Captain Hawker, in whose vessel then lying near New Castle, in Delaware, were the obnoxious stamps. The Governor submitted several questions to the Council which were answered the next day. The result of the interview was that he was advised that he could not accept of the resignation of the stamp distributor, nor was he empowered to appoint any one in his stead; that there was no one in the province able to give the requisite bond, who would accept the position; that it was not safe for any person to execute the duties of the office "on account of the violent resentment too generally imbibed against the act; and the many repeated threats by written advertisements, and otherwise, against any that should be aiding or assisting in carrying the same into execution; that it was unsafe for the Governor to attempt to send for the stamps from under Captain Hawker's protection."

The Governor showed great wisdom during the whole of this unpleasant affair, acted with firmness but moderation, seemed to appreciate the surroundings and to demean himself so as to show that he was fully alive to the situation. He never for a moment surrendered his loyalty to the king and yet seemed desirous of securing tranquillity in the province.

The ministry gained nothing by the passage of the act but the

hatred of the colonists and lost greatly in the estimation of the people at home. In less than a year's time the stamp act was repealed. But the repeal was accompanied by what was called a "declaratory act," which insisted that Parliament had the power to legislate over the colonies "in all cases whatsoever." The ministry then in power had insisted upon the passage of this "declaratory act" and that it should accompany the repeal. This circumstance aroused an unfortunate jealousy and distrust of the English Government throughout the colonies. Well it might arouse distrust, for it was but a menace of further oppression in the future. But the great majority of the colonists were so jubilant over the repeal of the obnoxious law that they overlooked the threat contained in its companion act. Exuberant joy was manifested all over the colonies; statues were erected to the king, Pitt and General Conway; loyal addresses were presented by the different assemblies of the several provinces, to King George. But this satisfaction was short lived, and events soon showed that an evil genius had full possession of all who at that time were influential in the government of England. Further taxation was attempted to be imposed upon the colonists. Revenue must be raised from America, was the cry. The impelling incident which was the direct cause of the new act was this: Charles Townsend, in the turmoil of affairs in Great Britain, had become Prime Minister, succeeding the Marquis of Rockingham. He was a man of brilliant parts but not of sound judgment nor of the firmness of purpose required in those troublous times. Grenville, the former Premier, had had his hatred of the colonies increased by his defeats. Townsend was uttering a boast one day, in the presence of Grenville, that he would find a way in which he could tax America. "You dare not do it" was the sneering reply of the former minister. Stung by the implication that he was lacking in the requisite courage, without reflection, Townsend replied: "I dare tax America." His boast was no mere utterance, for he instantly set about concocting a plan by which he might carry it out. Unfortunately, there had been a change in the sentiments of the members of Parliament. A bill was introduced by the ministers providing for the laying of an impost on glass, paper, pasteboard, white and red lead, painters' colors and tea. The most, if not all of these articles which were manufactured, were not produced in the provinces but were absolutely necessary in the ordinary business of the community. The preamble of the act declared that it was expedient to raise a revenue in America and to make more



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certain and adequate provisions for defraying the charges of the administration of justice in the provinces. One of the clauses in the act empowered the crown to establish a general civil list throughout every colony of any extent in North America, with salaries, pensions and appointments to the whole amount of the new duties. If possible, this was more obnoxious than the hated stamp act. If the object of the bill were attained,—the establishment of a civil list, independent of the legislature,—a great advance would be made towards the annihilation of liberty; nevertheless it became a law in the month of June, 1767. Very soon after, two other statutes were enacted which roused the people to a high pitch of indignant fury. The Legislature of New York had refused to comply with a requisition for supplying troops. This and the contumacious conduct of the Massachusetts Assembly gave particular offence to the English ministry and Parliament enacted a statute providing that the Legislature of New York should pass no act whatever until that colony should comply with the requisition. Information of these three acts reached the colonies about the same time.

No terms can fully describe the amazement and exasperation felt by the colonists over these continuous attempts of the ministry, especially when it was remembered that the "Grants and Concessions" of Berkeley and Carteret and the "Concessions and Agreements" of the Proprietors of West Jersey expressly provided "that the Governor and Council are not to impose any tax, custom, or subsidy, tollage assessments or any other duty whatsoever, upon any color or pretence, how specious soever, upon the said province and inhabitants thereof without their own consent, first had, or other than what shall be imposed by the authority and consent of the General Assembly." True, the Proprietors had relinquished the right of government to the British sovereign, but, while they had a right to do this, that body could not surrender the rights of the people; those rights were inherent in the whole body of the citizens, had been guarantied to them by the organic law of the land which had been their guardian and protector for a century.

Besides, tax was a mere gift, a gratuity, from the subject to the sovereign, justly due, it is true, for protection given, but, still a free will offering which the ruler could not compel at his volition, which must proceed from the subject through his authorized representative. The colonists were free born, British subjects, entitled to the same rights, the same freedom, the same equality, as though they had been born in

England. Representations in the councils of the government was a privilege inherent in every native born citizen. It was impossible to send delegates to the English Parliament; the distance between the two countries was too great, but, a colonial parliament would answer the purpose if the legislatures of the different colonies were unable to make provision for the proper administration of affairs. The colonial legislatures could better judge of the exigencies of any case that might arise, and knew better the wants, the sentiments and the peculiar conditions of their own immediate fellow citizens with whom they were in daily intercourse, than could a body of men surrounded by entirely different environments.

These were some of the arguments with which the proposed tax was met. The act which enjoined a colonial legislature from passing any law did not admit of any discussion; the mere statement showed its absurdity, its folly and its injustice. If the Assembly of one colony could be thus restrained, the same restraint could be placed upon all and there would be a cessation of legislation throughout the whole land. The Parliament might as well pass a law prohibiting men from breathing; legislation is as necessary to the body politic as breath to the natural body.

The same temper and resentment which impelled resistance to former measures still continued, but was now increased to an intensity never before existing, and only needed an incentive to again arouse the people to renewed and more vigorous opposition.

All through the discussion the colonists claimed only that to which they were entitled as British subjects, and demanded that they should receive at the hands of their sovereign the same consideration—nothing more, nor less—as was given to other subjects of Great Britain.

The discussion continued, circulars were issued by colonial legislatures, by governors, by officers and by individuals in the colonies; by ministers, members of Parliament and Boards of Trade, in England; and were scattered broadcast. Acts of Parliament were met by counter action by the colonial legislature. The Parliament called on the Assembly of Massachusetts to rescind an obnoxious law; the spirited colonists refused obedience. New York put Parliament at defiance and held regular terms of the Legislature to correspond with other similar bodies in the colonies. Its acts, of course, were powerless, for, to make them effective, they must have received the royal assent; and so, they passed no formal laws. The English ministry threatened; the

authorities in America kept on their way, coolly and calmly pursuing the course which they marked out for themselves, occasionally presenting moderate and respectful remonstrances, by way of petition, to the English sovereign, in which they set out their grievances in no uncertain manner and claimed that he, as their king, should protect them, his subjects, who ought receive guardianship and care at his hands. The excitement spread from Maine to Georgia. Massachusetts suffered the most, and her sister colonies gave substantial aid and assistance to her.

But while all this turmoil existed, the hated acts were put into operation and troops were quartered in Boston to secure compliance with them by force of arms, if necessary. This produced violence and disorder and the public discontent was largely increased until it swelled into turbulence and blood was actually shed in the streets of Boston.

Then came another outrage from England: Parliament requested the king to require the Governor of Massachusetts to make the most strenuous examination to ascertain who had committed treason and misprision of treason since 1767, and to report the names of the criminals, so that they might be brought to trial in England. This added more fuel to the flame already kindled and the whole people in every colony were incensed beyond degree. The measure was addressed especially against Massachusetts, but every province felt personally interested. The Legislature of New Jersey resolved that all persons charged with these crimes, residing in that colony, could only be tried by the courts of the province, and that "the sending such persons beyond the seas to be tried, is highly derogatory to the rights of British subjects; as thereby the inestimable privileges of a trial by a jury of the vicinage, as well as the liberty of producing witnesses in such trials will be taken away." This resolution gives the whole argument against the law.

The year 1770 began and Lord North was prime minister, having succeeeded Charles Townshend in 1769, in which year an attempt was made to repeal the act imposing duties on glass, paper and the other commodities already mentioned. North, on that occasion, declared that though prudence and policy might suggest the propriety of repealing the law, yet he hoped it would not be done until "America was prostrate at their feet." A year had elapsed since that insolent remark was made and Lord North, himself, introduced a bill into Parliament to repeal the obnoxious act. It was repealed, but only in part; the

duties were taken from every article named in the bill except tea. The colonists objected not so much to the fact that certain imported articles were taxed, but, to the principle involved. That was insisted on with the same force after the repeal as before. It made no difference whether the tax was imposed on one article or on a hundred, and, of course, the compromise, for such it was considered, failed to satisfy the colonists, and discontent still reigned.

The malcontents in America had long since banded themselves together by solemn compact to use no goods imported from England which were taxed, and the foreign trade had dwindled to almost nothing. But, notwithstanding this, King George and Lord North persisted in their mad attempt to bring "America prostrate to their feet." The king was a dull, stupid man, with an inflexible will. North was of a generous nature, with good impulses, who appreciated the peril of the situation much better than his royal master. It was ascertained after his death that he was of the opinion that a continuance of the action determined upon by the king against the colonies would eventuate adversely to the crown. But North, although nominally the Premier of the empire, was not Prime Minister; the king governed and overruled his minister. North was a violent Tory, according to the political nomenclature of the day. A boast made by him on the floor of the House of Commons gives an index to his character; "since he had a seat there he had voted against all popular, and in favor of all unpopular measures."

So the perilous plans of the sovereign were followed; the declartory law which accompanied the repeal of the Stamp Act, the "sugar act," the law creating a Board of Commissioners of the revenues, the mutiny act, that for quartering soldiers on the colonies and that restraining the action of the New York Legislature, were still unrepealed. Nothing would satisfy the colonists short of the annulling of all these statutes, and the settling, beyond controversy, of the principle that there should be no taxation without representation.

But the king was not satisfied yet; he purposed to drive the iron still deeper. The Governor of Massachusetts and the Legislature had quarreled about the support of the colonial government and no bill providing for that had been passed. In 1772, it was learned that provision had been made by King George for the support of the government independent of the Assembly. The provision was afterwards extended to the judges of the Supreme Court, by providing independent salaries for these offices.

During all the years of this disquiet, the people at large had not been idle. Meetings of citizens were held all over the country; committees had been appointed to take measures to secure an alleviation of their grievances. In 1773, the people seemed to cease the mere expression of their sentiments on the conduct of king and ministry and to adopt practical measures tending to a consolidation of public sentiment, a closer union of the colonies and more united action.

The colonies were bound together by no organic bond, no covenant controlling and requiring a combined effort. The want of such a bond was keenly felt by the thinking men of the country. A remedy for the defect was attempted in the selection of what were called Committees of Correspondence. In March, 1773, the Assembly of Virginia through several resolutions referring to other matters, suggested the appointment of such a committee. Its object, as stated by these resolutions, was "to obtain early and authentic intelligence of such acts and resolutions of Parliament as might relate to America, and to maintain a communication with sister colonies." This action met with the approbation of almost all the other colonies. The Assembly of New Jersey accepted the suggestion coming from Virginia, and, at their meeting, held at Burlington, on the 8th of February, 1774, after carefully and solemnly discussing the whole situation, appointed a very strong Committee of nine members, vesting them with full powers to act within the lines proposed by the Virginia resolutions, and also directing them to report "occasionally" to the Assembly. The Chairman of this Committee was James Kinsey, afterwards Chief Justice, but a loyalist in his views and actions. Similar committees were appointed by all the colonies and served a most important purpose in the after history of events. They brought the colonies closer together, with one common purpose; moulded public sentiment; directed affairs so as to secure a systematized effort to obtain relief from the evils of the times.

The end was fast approaching; the stupid, self-willed King imagined that the time was near at hand when America would be prostrate at his feet and that it would require only a few more turns of the political vice to force his rebellious subjects to surrender. So, the East India Company was permitted to carry its tea to all the colonies and leave it almost free from duty. The colonists had refused to buy this product of the dominions of that overgrown company and it became financially embarrassed. Such arrangements were made that the company could afford to sell the tea nine pence per pound less than it had been offered

before, and it was supposed that self-interest would induce the colonists to purchase the commodity. But the king and ministry again failed to appreciate the sentiments of the people. It was not the amount of money to be paid, but a great principle for which they were contesting, one involving the liberties of a nation, and they persisted in their refusal. There was an immense interest to the company at stake in the sale of its tea; 17,000,000 pounds of that commodity were stored in its warehouses. Under a false impression, as to the action of the colonists and trusting to the protection of the government, they sent forward their vessels to American ports, with the tea consigned to recognized friends, or to those who were known to be loyalists. The result was almost sublime; the people seemed actuated by one spirit in their determination to resist. At every port preparations were made to prevent the landing of the tea. In Boston the ships were boarded by a band of citizens disguised as Indians, who broke open the boxes and poured the contents into the sea.

Little opportunity was afforded the citizens of New Jersey to show such a decided opposition to the action of the English ministry. There were no ports in the colony where it was supposed tea could be landed. But New Jersey did have a tea party, fashioned somewhat after the larger and more celebrated one at Boston.

A captain of a ship loaded with tea, consigned to Philadelphia, did not dare land his cargo, as the patriots of that city had given notice that they would not allow any vessel containing that commodity to enter their port. He, therefore, sailed up the Cohansey River, in Cumberland County, then a port of entry at which there was considerable foreign trade, secretly landed his cargo and stored it in the cellar of a house fronting on the "Green." The inhabitants became aware of the circumstance and appointed a committee of five to look after it. This was shortly before a general meeting of the citizens of the County, held at Bridgeton, December 22, 1774, to consider some recommendations of the first Continental Congress. At this meeting, in pursuance of certain resolutions, a committee of twenty-five persons was appointed, which was immediately notified of the facts connected with the landing of the tea and of the selection of the committee of five by the inhabitants of Greenwich; but, after consultation any action was postponed until the next day. During the night, some persons dressed as Indians broke open the house where the tea had been stored, carried it to the public green and burned it; this was done in the early evening so that

the sight might be enjoyed by the people. At a meeting of the committee of twenty-five held on the next day, news was received of this action, and two "resolves" were passed. "1st. That we entirely disapprove of the destroying of the above mentioned tea, it being entirely contrary to our resolves. 2d. That we will not conceal nor protect from Justice any of the perpetrators of the above fact." It was shrewdly suspected at the time that the committee were not so much disposed to condemn the "fact" as the resolution would indicate, and certainly, that they were glad the tea had been disposed of, as it would have been a burden on their hands. Those engaged in the burning were among the most prominent citizens in the County. Among them was Ebenezer Elmer, afterwards a surgeon in the patriot army, and the father of the Hon. L. Q. C. Elmer, an Associate Justice of the Supreme Court of New Jersey, in the early part of this century.

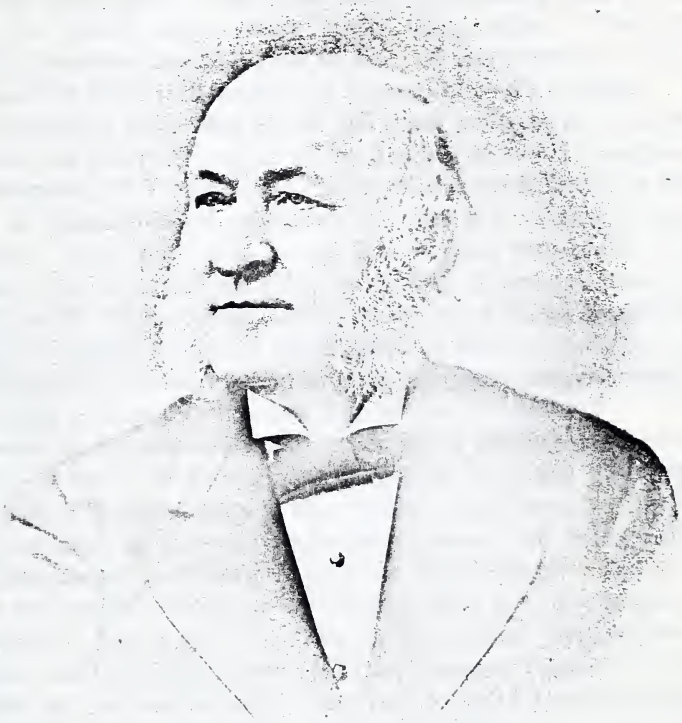
Suits against some of those engaged in the affair were commenced by the owners of the tea, at the succeeding April Term of the Supreme Court. Eminent Counsel were employed on both sides; those for the defendants were retained by money raised by the citizens by subscription. At the proper time, the plaintiffs, being non-residents, were required to file security for costs. They were not able to do that, as they could not induce any resident of the State to become surety, the feeling being so strong in favor of the defendants. In November Term the demand for security was repeated and in the succeeding April Term, 1776, the plaintiffs were non prossed. But, a month later, the bond for costs was furnished, the non suits set aside and the suits revived. But that is the last action taken in the cases; they still remain undetermined, to this day.

An attempt was made to punish the offenders by criminal proceedings. Chief Justice Frederick Smyth, who was a Tory, presided in the Oyer and Terminer held in Cumberland in May, 1775, and called the attention of the Grand Jury to the offence, entering very largely, in his charge, into the case, with its facts and circumstances. The Sheriff of the County was the brother of Ebenezer Elmer, and a Whig. He summoned a jury of the same party in politics as himself and the foreman of the jury was Daniel Elmer, another brother of the Doctor. It is not at all improbable that some members of the jury knew, personally, more about the burning than was told by the Chief Justice. No bill was found, although Judge Smyth sent the jury out the second time. Jonathan Elmer's term as Sheriff expired in June succeeding.

Governor Franklin appointed as his successor, a man named Bowen, who was supposed to be a Tory. Dr. Elmer kept a diary at the time, and in it he writes this: "'Twas expected, as Sheriff Bowen had got a jury of Tories, we would be Indited for burning Tea and taking Wheaton, but they could not make out, but made presentment."

The news of the action of the colonists, relating to the tea, was received in England with great indignation. But the wrath of the king and of his ministers was directed particularly against Massachusetts and that colony was very soon destined to feel the results of its insubordination. The ports of Boston were closed by act of Parliament; no vessels were permitted to enter or leave its harbor; the custom house and its appliances were removed to South Salem. By a gracious provision of the act, however, these restrictions were to be withdrawn upon condition that the East India Company was compensated for its losses. Although the king and his council believed that good order was restored in Massachusetts and that the laws of Parliament would be observed in that colony, yet the ministry were not satisfied with this, but proceeded to test the power of endurance of the citizens of Massachusetts by other enactments. Another law took away the charter from the people of Massachusetts, under which they had lived for nearly a century and a half, and reserved to the crown the appointment of all offices in the colony during the royal pleasure. By another act it was provided that if any person were indicted for a capital offence and it were stated, under oath, that the crime was committed in aid of the magistrates in suppressing riots, and that he could not be fairly tried in Massachusetts, the offender could be sent to another colony, or to England, for trial. Another law passed almost at the same time, provided for the quartering of soldiers upon the inhabitants.

But the colonies, while sympathizing with Massachusetts in this her time of peril, were, if possible, more indignant and filled with more dread for the future by the passage of an act at the same time with the three to which reference has just been made relating to the province of Quebec. This act vested all legislation in a council appointed by and dependent on the crown, and placed all the revenue in the hands of the king for his absolute disposal. If this were to be the fate of a province which had been quiescent during all these troubles, what would become of those who had been violent in their denunciation of the English ministry and had placed obstacle after obstacle in the way of obedience to law? If any measure had been needed to unite all the colonies, this would seem to be the indissoluble bond that would accomplish it.



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A. G. Richey

The citizens of Boston were not idle; they had foreseen the blows which would be aimed at their welfare and so, on the 13th of May, 1774, three days after the news of the "Port bill" was received, they announced by a resolution their intention to meet the crisis with an undaunted spirit and, at the same time, to submit a plan to the other colonies for united action which might bring relief. They proposed that each province should agree to stop all importations from Great Britain and the West Indies until the odious acts were repealed. Copies of this resolution were sent to all the other colonies and the result of this action was the convocation of the first Continental Congress.

The Assembly of Virginia, as a mark of sympathy with the suffering citizens of Massachusetts, proposed that the first of June, the day on which the "Port bill" was to go into effect, should be observed throughout the continent as a day of fasting, humiliation and prayer, "to implore the divine interposition to avert the heavy calamity which threatened to deprive them of the exercise of their civil rights, precipitating the evils of civil war and to give one heart and one mind to the people firmly to oppose every invasion of their liberties."

This was the first hint that had appeared in public utterances of the possibility of war. The colonists, up to this time, had still preserved the attitude of loyal subjects to the British government. But now, it became a matter of discussion whether it would not be better, under the circumstances, to declare themselves independent. There was no doubt in the minds of some of the leading men as to the proper course to be pursued; they were outspoken for separation, but they were few in number, and although afterwards they became a power in directing the people in the course which they had foretold must eventually be pursued, yet, at first, they were either misunderstood or were not appreciated.

At this juncture of affairs, Governor Franklin was earnestly requested to call the Legislature together. The exigency of the case demanded that this course should be pursued; discontent prevailed all through the colony; other colonies were in commotion, having openly avowed thier intention to rebel; hostilities were threatened; but Franklin still persisted in his refusal to act and it was evident that measures must be adopted by some authoritative body, deriving its power directly from the people, to meet the alarming emergency of the time. That was accomplished in this manner: In the months of June and July, 1774, there was a simultaneous movement of the inhabitants of

the several counties of the province which must have been the result of a preconcerted plan. Meetings of the citizens were called at different places in the colony, which were very largely attended. At these meetings various plans were discussed and many suggestions made, all having reference to the same end—the settlement of the controversy with the mother country. It was understood by all, that some measure must be adopted and that right speedily, to relieve the unrest of the public mind and to preserve the liberties of the citizens intact from the encroachments of the English ministry. Boston had proposed a general non-importation and exportation act. All were ready to agree to that course, however ruinous it might be to the interests of merchants and traders and of the community in general, if by adopting it any good could be accomplished. A few might have entertained the idea and undoubtedly did, of separation from England. But, if such a measure were thought of, no one proposed it in the Legislatures or Congress until later and it was not discussed in those bodies. It would have met with no favor, for at every one of the meetings where delegates were appointed to the Convention, with one single exception, the strongest asseverations of loyalty were made to the English crown. In many instances, professions of abiding confidence in the Sovereign; of cheerful obedience to all constitutional laws of England and of an earnest desire to remain dependent upon the British government, characterized the resolutions passed at the various meetings. The Convention itself, composed as it was of delegates coming up from the people at large, representing faithfully the sentiments of their constituents, voiced the wishes of the great majority of the colonists when, in its first resolution, it was declared that the inhabitants of the province "are and ever have been firm and unshaken in their loyalty to King George and *that they detest all thoughts of an independence on the Crown of Great Britain.*"

Although these various meetings were almost simultaneously held and undoubtedly with a prior understanding on the part of those who called them, and the Electors present did not seem to have any concerted plan for future action, yet, it was evident from their proceedings and resolutions that a provincial Congress or Convention, was deemed necessary and that delegates should be appointed to that Congress. The minds of the people were so oppressed, the danger was so imminent, the emergency so full of peril, that no question was raised as to form, or, as to what should be the jurisdiction of the proposed provincial meeting.

From the many discussions and suggestions, a plan was finally evolved which met with the approbation of all, and that was the assembling of a provincial convention or congress, to which should be referred the whole subject and which was to be charged with the responsibility of providing some measure of meeting the dilemma. That convention or congress was composed of delegates from the different Counties.

This was a momentous measure, and it was the beginning of the end. Seventy-two delegates, in all, were appointed to this Congress, which met at New Brunswick, July 21, 1874. These delegates were representative men, wise, judicious, thoughtful, conservative, coming up from every county, representing all classes—the very best men in the colony. They continued in session several days, discussed the whole range of circumstances surrounding the situation, the dangers that menaced the life of the colonies, denounced the obnoxious acts of Parliament in strong and unmistakable terms, recommended a general non-importation and non-consumption agreement, appointed a committee to raise funds to afford relief to the suffering inhabitants of Boston and rendered grateful acknowledgments "to the noble and worthy patrons of coustitutional liberty in the British Senate, for their laudable efforts to avert the storm they beheld impending over a much injured colony, and in support of the just rights of the King's subjects in America." The last action of the Convention was to appoint James Kinsey, William Livingston, John De Hart, Stephen Crane and Richard Smith delegates to represent the Colony of New Jersey in a general Continental Congress, to be held in Philadelphia, about the first of September then next, "to meet, consult and advise with the Deputies from the other colonies; and to determine upon all such pendent and lawful measures as may be judged most expedient for the colonies immediately and unitedly to adopt, in order to obtain relief for an oppressed people and the redress of our general grievances."

These men were not all staunch patriots; Kinsey was one of the best men in the community and was afterwards made Chief Justice; but, although enjoying the unbounded confidence of all classes, there were excellent reasons for doubting his adherence to the patriot cause. He and John De Hart, in November, 1775, declined to serve any further as delegates, and Kinsey, after the breaking out of the war, refused to take the oath prescribed by the Colonial Legislature. Richard Smith, after the adoption of the Constitution of 1776, was elected a member of the first State

Council, but refused to serve and tendered his resignation. The Council held that they could not receive it and therefore expelled him.

Most of the counties and of the townships, also, appointed committees of correspondence, and of "observation" and "inspection," the first of which were directed to correspond with similar bodies from the other counties and townships. These various committees were industrious in the performance of their duties; they met from time to time, adopted rules of conduct, assiduously guarded the public interest, watched the actions of suspicious citizens, organized the militia of the colony, appointed their officers and the proper persons to drill them in martial exercises, and when the war with all its horrors was upon the people, they provided for obtaining information of the approach of the enemy's forces, or vessels, gave notice to the authorities of movements of the British, provided ammunition and arms for the patriot soldiers, acted as express riders and corresponded with other committees and with friends of their cause, not only in New Jersey, but, in other colonies.

Congress met in Carpenter's Hall, Philadelphia, October 4, 1774. Its proceedings belong to the whole country, and, although New Jersey is identified with it and was loyal to all its resolutions, yet, it is not the province of a historian of a single State to record minutely all its measures, but only such as may relate to that particular State. It may be said however, that it advised all the colonies to accept the proposition of Massachusetts, to "cease importing, purchasing or using any goods from England, Ireland or their dependencies from and after the first of December then next, and also to stop exporting any goods to Great Britain or the West Indies, after the first of September, 1775, unless the grievances of the colonies should be sooner redressed." The New Jersey delegation reported the proceedings of Congress to the Assembly on the 11th of January, 1775, and they were unanimously approved by that body. The same persons were continued as delegates to the next Congress, with power to propose and agree to every "reasonable and Constitutional measure for the accommodation of the unhappy differences existing between the mother and her colonies."

So the fateful year of 1775 was ushered in with no possible hope of an adjustment of the controversy between the English Government and its subjects in North America. The king still ruled his ministers; his obstinate will saw no possible solution of the problem but by a continuance of vexatious and irritating measures, only widening the breach and driving his American subjects into open rebellion.

The relations of Governor Franklin and the Legislature during all this commotion, became strained, and finally led to greater alienation between them. The Assembly did not fail to recognize the entire honesty of Franklin's opinion as to his duty to his sovereign. He fully and sincerely believed that his first obligation was to the king and that he was bound by every consideration, in this terrible crisis, to devote all his powers and influence to his sovereign's cause. There were several matters which came up in dispute between him and the Assembly. In 1771, the Governor called the attention of the Legislature to the subject of providing for the support of some British troops which had been quartered in the province. This measure had been one of the causes of complaint by the colonies and the people and their representatives had been very restive under what they considered an invasion of their rights. In June, 1767, the Legislature passed "An act appointing Commissioners for supplying the several Barracks erected in the colony of New Jersey with Furniture and other necessaries for accommodating the king's troops in or marching through the same, for supplying deficiencies and Defraying other Incidental charges." This act had received the concurrence of the Council and had been approved by the Governor. But, when it was presented to the English authorities for approval, they reported adversely to the king and it was disallowed, with an order that one of the Secretaries of State should "admonish" Governor Franklin for having passed the act. Lord Hillsborough, in pursuance of this order wrote a sharp letter to Franklin, severely reprimanding him not only for allowing the bill in question to be passed, but for other alleged derelictions of duty. A very long and labored reply was returned by Franklin, which is only important, in one respect, for the present purpose. The objection against the law made by the king's ministers was that it had not been passed in exact compliance with a previous act of Parliament. The Governor showed very plainly not only that the Legislature had complied with the spirit if not with the very letter of that statute, but that it questioned very seriously the right to call on the colonies to pay for the troops quartered on them against their consent and utterly denied any authority for taxing them without representation. So, in 1771, when, in his address at the opening of the Legislature, on April 18th, Franklin called for further appropriation for the support of the troops, the Assembly flatly refused, and then, the Governor entered into an elaborate mathematical argument to convince it that their constituents were amply able to pay more.

The Assembly, however, was firm and refused to load the country with additional burdens. It was unmistakably true that the people of the province were exceeding irritated by the presence of the king's soldiers at a time of peace, and the delegates were strengthened in their refusal by the knowledge of that fact. The Freeholders of Hunterdon County, about that time, presented a remonstrance to the representatives from that County, at the close of which they presented these four questions for solution:

"1st. Whether to have the king's Troops stationed among us in Time of Peace is Constitutional and Agreeable to our Rights and Privileges?"

"2nd. Whether they are or can be of any use to us, or whether any proper Officer of this Government has the command of them in any Case of Immergency?"

"3rd. Whether Regular Troops does not spread Vice and Imorality in a Country when they are maintained in Idleness?"

"4th. Is it Consistent with Honor and Justice to support those who do us no service?"

"5th. Whether there is not Danger that a Military Power may in Time interrupt the Proper Influence and Management of Civil Administration?"

In the fall of 1771 the Legislature, however, agreed to pay any arrears that might be due for the subsistence of the troops, but this was done with the implied assurance that the soldiers should be withdrawn and that the colony would not be again called upon to raise money for that purpose. Accordingly, early in 1772, the troops were removed and that cause of dissension ceased.

Another disagreement arose in the same year. A member from Essex, named John Ogden, after accepting the position of delegate to the Assembly, and taking his seat, became insolvent and resigned. The House accepted the resignation and directed the Speaker to issue his warrant to the Clerk for another election. The Clerk drew the writ and applied to the Governor to have the Great Seal affixed. The Governor doubted the legality of the act and consulted with his Council, who advised him that it was "by no means regular or constitutional." A controversy arose at once between the Government and the Assembly, Franklin claiming that the House could not accept a resignation; that after a member had once qualified and taken his seat, his subsequent insolvency did not disqualify him. The dispute was settled in a

most singular manner. The Governor appointed Mr. Ogden a Justice of the Peace of Essex County. By an act of the Assembly, passed July 8, 1730, it was declared that if any member of the Legislature should accept an office of profit from the crown or from the Governor for the time being, his seat should be vacant and a writ for a new election should issue. The law did not provide by whom the seat should be declared vacant, nor who should issue the warrant. The Governor, however, in this instance, made the declaration and issued the writ. This the Assembly declared to be irregular and insisted that no one had the right to interfere with their sitting members but themselves, and that the writ should issue from them. But, as a difficulty which promised, at one time, to create some disturbance was thus settled, the delegates were not disposed to pursue their opposition further.

Another discussion, more violent than those already noticed, although much less important, arose in 1772, between the Government and the Assembly, in which Franklin allowed himself to depart from the dignity which had generally characterized his deportment. About four years before, Skinner, the Treasurer of the Province, complained that the chest in which the funds of the colony were kept, had been broken open and seven thousand and more pounds of bills and money stolen. About a year afterwards, Skinner was appointed a member of the Council and Franklin became very much attracted to him and would not admit that there was any fraud on the part of the Treasurer, in the case of the robbery. But the Assembly took a different view, alleged that the money was lost through the negligence, at least, of the Treasurer and intimated that his story about the alleged theft was not to be entirely believed. This gave rise to very acrimonious correspondence, in which the Governor lost his temper and allowed himself to indulge in language not becoming the Chief Magistrate of a province.

But the chief source of disagreement between the Governor and the Assembly was the absolute divergence of their opinions and actions in the differences between England and the colonists. Franklin never disguised his sentiments in the slightest degree, but whenever it was necessary, proclaimed his adherence to the Crown. His position was fully understood, but such was the respect felt by the Assembly towards him that his salary, £1200 and £60 for house rent, was allowed him to the very close of his career as Governor.

But the end came at last. Concord and Lexington sent their dread

echoes throughout the land, Bunker Hill followed and the die was cast. An appeal was made by the undismayed and spirited colonists to the wager of battle, and war was declared. Franklin remained at his post, from time to time transmitting to England information of events, as they transpired in the colony. During the year 1775, he found that his Council was not, at all, in accord with him. Theretofore, there had been no discord, but, in that year, one of his Councillors, the Earl of Stirling, accepted a military commission under the Provincial Congress and Franklin suspended him. At the end of 1775, he found himself almost entirely unsupported and in a most embarrassed position. On January 6, 1775, a letter which he wrote to the Earl of Dartmouth contained this sentence: "My situation is indeed somewhat particular and not a little difficult having no more than one or two among the principal officers of government to whom I, even now, speak confidentially on public affairs." This was intercepted by General Stirling and instant means were taken to prevent him from leaving the province. There is not the slightest evidence that he contemplated any such step. He was then living at Amboy and nominally attending to the duties of his position. A guard was placed at his gate and he was virtually under arrest. Later, in 1775, he received some despatches from the English ministry which he thought it his duty to lay before the legislature. He thereupon issued a proclamation directing the Assembly to meet on the 20th of June. The Provincial Congress, then in session, considered this a violation and in contempt of its order, which had sundered all relations with England, directed that the Governor's proclamation should not be obeyed and that no more salary should be paid to him. He was arrested on the 17th of June, 1775, by Nathaniel Heard, afterwards General in the Colonial Army, under an order from Samuel Tucker, President of the Provincial Congress, or Convention, as it was afterwards called. That order manifested the respect felt for the Governor; the officer making the arrest was directed to accept Franklin's parole of honor, to permit him to select one of three places of residence, one of them his own farm at Rancocus, and "that this necessary business be conducted with all the delicacy and tenderness which the nature of the service can possibly admit of." The Governor indignantly refused the parole of honor and was therefore placed in actual confinement, in his own house, however, a guard of sixty men being placed around it. The proceedings were reported to the Continental Congress, which directed that the prisoner should be examined.



Ewan Merritt

"If, on such examination, they shall be of opinion that he should be confined to report such opinion to Congress, and then the Congress will direct the place of his confinement." He was removed to Burlington and there submitted to an examination. He denied the jurisdiction of the Legislature, claiming that it had usurped his prerogatives and absolutely refused to answer any of the questions put to him. He was then declared an enemy of the country and ordered to be put "under safe guard" until the pleasure of Congress should be ascertained. The original minutes of the convention, until recently and, perhaps, still in existence, show an erasure of the words "in safe custody" and an interlineation of the words "under safe guard." On the 22d of June, 1776, Congress directed that he should be sent, under guard, to Governor Trumbull, of Connecticut, "who could admit him to his parole, but if Mr. Franklin refused to give his parole, that Governor Trumbull be desired to treat him agreeably to the resolution of Congress respecting prisoners." The Chief Justice of the State induced Franklin to accept parole and he was quartered in the house of Capt. Grant, at East Windsor. There was an apparently unnecessary severity connected with this imprisonment which cannot be accounted for. Gov. Franklin was married to an estimable woman just about the time he came to New Jersey as its Governor. They were living at Amboy when he was arrested, but, during the whole of his stay in Connecticut, more than two years, were separated, Mrs. Franklin remaining in New York.

Several attempts were made for an exchange, but, on April 22, 1777, Congress transmitted a resolution to Governor Trumbull stating that evidence had been received that Franklin had "sedulously employed himself in dispersing among the inhabitants the protection of Lord Howe and General Howe, the king's commissioners for granting pardons and otherwise aided and abetted the enemies of the United States," and therefore he was instructed to order the late Governor into close confinement, "prohibiting him the use of pen, ink and paper, or the access of any person or persons but such as are properly licensed for that purpose by Governor Trumbull." His confinement lasted until October, 1778, when he was exchanged for J. McKinley, president of Delaware. His wife, in the meantime, had died in New York and was buried before her husband was released. Franklin sailed for England in August, 1782. The English government donated £1,800 to

him as an indemnity for his losses and allowed him £800 per annum, as a pension.

There was much legislation during the time of Franklin, but the most of it was confined to local and private acts, such as establishing the lines between different counties; ferries across rivers; bridges over creeks; roads; highways; erection of court houses and jails; draining meadows; naturalizing aliens; preservation of forests; preventing the waste of timber and the like. But there were some statutes of importance, indicating the nature of the law making on the subjects to which they related. Of this character were the following: "An act for preventing Frauds by Mortgages which shall be made and executed after the First day of January one thousand seven hundred and seventy-six." The preamble to this act stated that it was passed to prevent Frauds and Abuses which had been perpetrated by persons mortgaging their real estate and "afterwards selling the same to other persons who were ignorant of such mortgages, or by Persons mortgaging the same lands, or Tenements several times, without giving notice to the latter mortgagees of the former mortgage or mortgages, whereby persons have been or may be defrauded of great sums of money." This act provided for the registry of mortgages in suitable books and the indorsement on the mortgages of the time when they were received for registry. Mortgages must first be acknowledged or approved before one of the Council, a Justice of the Supreme Court, or one of the Judges of the Court of Common Pleas; the mortgage first registered to have priority; if two mortgages were presented at the same moment of time, the one prior in date should first be registered and paid; when a mortgage was paid, it was cancelled from the record by an entry in the margin left for the purpose. The Clerks of the respective counties were required to read the act publicly at the courts of sessions of the Peace, in open court, at three succeeding sessions of the Peace, after the publication of this act, in each respective city and county in the colony. This is the first law on the subject of the registering of mortgages and, in the main, is very similar to the act now in force. This act was renewed in October, 1770, and according to its terms "shall be and remain in full force forever thereafter."

"An act to enable creditors more easily to recover their Debts from Joint Partners, within the colony of New Jersey," passed December 21, 1771; this was to enable creditors to recover their debts from one of several partners who might be residing in New Jersey, although the other parties were residing outside of the colony.

"An act to extend the jurisdiction of the several counties in this colony, which are divided by Rivers, Creeks and Bays," passed December 21, 1771, was intended to put an end to questions which had been raised as to the jurisdiction of the Courts over crimes perpetrated on the rivers or creeks or bays, forming the boundaries. The first section gives the full scope of the act; the second provides for the method of trying offenders. On September 26, 1772, an act was passed for establishing the boundary line between New York and New Jersey. This line had been settled by a joint commission appointed by the king. There were some difficulties affecting the right of private individuals who owned land so situated that the partition line, determined by the commissioners, might change the jurisdiction over the land from one State to the other. Provision for this exigency was made by the act, and it was enacted that all land lying south of the partition line, the title to which was derived from New York, should be held in fee as fully and absolutely as if the estate had come from the Lords Proprietors of New Jersey. But the act further declared that it should not be in force until the king should give his assent to a similar law passed by the Legislature of New York. The practice of bringing Defendant Mortgagors into court by publication in actions of foreclosure, was introduced by "An act for making process in courts of Equity effectual against mortgagors who are absent and cannot be served therewith, or who refuse to appear." Precaution was taken against quacks and ignorant persons who undertake to practice medicine by "An act to regulate the practice of Physick and Surgery within the Colony of New Jersey." An examination as to the ability of candidates for licenses was to be made by two Judges of the Supreme Court; and any person practising without a license from the examiners forfeited Five pounds. A clause in this Bill gives an idea of one of the customs of the day, as it enacts that "Every Physician, Surgeon or Mountebank Doctor," who should come into or travel over the colony and "erect any stage or stages for sale of drugs or medicines of any kind" shall forfeit £20 proclamation money. Aliens were permitted by act to hold real estate in the colony.

On the 8th of February, 1774, the Legislature, as already stated, appointed a Committee of Correspondence. Neither this measure nor that of electing a Provincial Congress met with Franklin's approbation. At the beginning of the session, as usual, he made a speech, in which he referred to the perilous state of affairs existing in the colonies, dep-

recated the measures adopted by those who seemed on the point of rebellion and warned the delegates against the practice of intrusting the performance of their duties to others. He very plainly referred to the appointment of the Continental Congress and of the Committee of Correspondence and prophesied that their own destruction would inevitably follow if they persisted in such measures. The assembly made a very spirited reply in which they declared that they were unwilling to do anything which would add to the alarming situation, unless it were necessary to secure their liberties, but, at the same time, notified him that they would intermit no exertion to preserve their rights. The same Legislature prepared and forwarded to the King a formal statement of their grievances, thirteen in number, and respectfully asked that the colonies might be relieved from the burdens they were bearing. The Committee of Correspondence was directed to transmit this petition to England, at the very first opportunity. It was treated with studied contempt by the King and ministry. The day after the Governor's speech, the Legislature appointed from their own number a committee of grievance, of nine members.

The Provincial Committee of Correspondence, or, as it was called by its members, the New Jersey Committee of Correspondence, met on the 2d day of May, 1775, and after referring to the startling events of the preceding month, "advised and directed" that their Chairman, Hendrick Fisher, should immediately call a Provincial Congress, to meet at Trenton, on Tuesday, the 23d day of May then instant, to consider of and determine such matters as might then and there come before them, and the several counties were directed to elect their delegates for this Congress."

Before the Congress thus called, convened, the Legislature again met, on the 15th day of May, 1775, with a full representation from every county and from the cities of Amboy and Burlington. The Governor had summoned them to receive and consider a resolution passed by the House of Commons for the alleged purpose of conciliating the discontented colonists. This resolution had been passed under these circumstances: Parliament met on the 29th of November, 1774; the king, in his speech from the throne, declared that Massachusetts was making obstinate resistance to law, that the other colonies were countenancing this action, and that the commerce of England was endangered. He stated that he relied upon his faithful subjects in England to aid him in restoring the authority of the English crown in America.

Lord North, then prime minister, announced that he would present some conciliatory measures after the usual Christmas holidays. On the 20th of January, 1775, Lord Dartmouth, the Secretary of the colonies, presented the papers from the American provinces. Lord Chatham at once moved an address to King George, asking him to remove the troops from Boston and supplemented his motion with an address in which he prophesied that if the door of conciliation were not opened immediately, it would be too late; that whoever had advised the king to his present measures ought answer for it at his peril, and that, if his Majesty continued to listen to such counsels, he would be undone; "he may continue to wear his crown, but the American jewel out of it, it would not be worth the wearing." He commended the Americans in their opposition to taxation without representation. "They say truly," said the intrepid statesman, "representation and taxation must go together, they are inseparable;" the Americans do not speak the language of slaves, they speak out; "they do not ask a repeal of our laws as a favor, they claim it as a right; they demand it; they say they will not submit to them; and, I tell you the acts must be repealed; you cannot enforce them." It was all useless; Chatham was seconded by the wisest and ablest men in parliament; his eloquence and the entreaties of his supporters availed not; his motion was rejected by a decided majority.

In the Commons, the American question was presented very early in the session. The manufacturing towns in England were deeply interested in the subject; the American colonies refused to buy their goods and a very large trade ceased, to the great loss of the traders in England. Petitions were sent up from manufacturers and merchants asking Parliament to relieve the commerce of the country from the paralyzing effect of the stringent measures used against the colonies. A motion to refer these petitions to a select committee finally passed, through the efforts of the ministry, which committee was to report the day after that fixed for the consideration of American affairs. Burke, ever the consistent friend of the colonies, referred to this Committee as the "Committee of Oblivion." The way was then cleared for the minister to present his measures of conciliation. He first, however, moved an address to the King, which had not a single feature of conciliation in it. It began by charging that Massachusetts was in a state of rebellion; that that colony had been supported in its antagonism to the crown by unlawful engagements and combinations of the other colonies and that

his Majesty's subjects in Great Britain had sustained great loss thereby. The address ended with the assurance to the king that Parliament never would relinquish the authority of the King over the colonies and requested him to use all measures to force them to return to obedience, and promised him that "Parliament would support him at the hazard of their lives and property." The address was adopted by both Houses, notwithstanding most strenuous efforts against it. Not content with this, North moved the passage of an act prohibiting certain of the colonies, Massachusetts, New Hampshire, Connecticut and Rhode Island, from trading with England, Ireland and the West Indies, and from fishing on the banks of Newfoundland. This prohibition was afterwards extended to all the colonies except New York, North Carolina and Georgia. Why these exceptions were made, is not exactly clear, but there may have been two reasons for it, one arising from the following facts: The merchants of New York had, at first, refused to accede to the non-importation act proposed by Massachusetts; North Carolina had been tardy in sending deputies to the Continental Congress and Georgia was not represented there at all. The other was the hope that the distinction might work disunion in the colonies. If this last reason was one of the impelling causes for the passage of the measure, it utterly failed, as these colonies not only did not avail themselves of the privileges granted, but were indignant that they should have been excepted, as they were determined to cast in their lot with the rest of their fellow colonists and abide the result with them. It can hardly be imagined that, after this insulting legislation, any sane man could have believed that any subsequent acts could be made acceptable to the colonies. North was too well acquainted with the spirit and temperament of the Americans, and a man of too much discernment to believe that the colonists would consent to his proposed conciliatory measure after the passage of these obnoxious statutes. His motive in offering his plans was sinister; he hoped by it to place the Americans in a false light, to offer them a measure which ought to satisfy them and which as obedient subjects of King George, they were bound to accept, but which he knew they could not and would not receive. This opinion is justified by the fact that he represented that the plan would probably be rejected by most of the colonies, would tend to disunite them and that the merchants and manufacturers would be satisfied with the government, if it offered such terms to the Americans. This was the plan of conciliation, which was presented to the

Commons on the 20th of February, 1775, and passed the same day: "That when any colony should promise to make provision, according to its conditions and circumstances, for contributing its proportion for the common defence, to be raised under the authority of the general court, or assembly of such colony, and *disposable by Parliament*, and shall engage to make provision also for the support of civil government and the administration of justice in such province or colony, *if such proposal shall be approved by his Majesty in Parliament* and for so long as such provision shall be made accordingly, to forbear in respect to such colony to lay any duty, tax or assessment except only such duties as it may be expedient to lay or impose, for the regulation of commerce, the nett proceedings of the duties last mentioned to be carried to the account of each colony respectively." Just exactly what was meant by the proposition was not clear; friend and foe alike, inquired what the minister intended by the proposed act. The minister would, of course, give no explanation to his foes, for they would certainly oppose it. To friends, some of whom were, at first, inclined to antagonize the measure, it was stated that it was intended to submit the Americans to a test; if they were really opposed to the principle that there should be no taxation without representation, they would accept, but, if they were simply using that plea as an excuse to secure inde pendence, they would reject the plan. Few were favorably disposed to the measure, at first, but after the explanations were made by North, the friends of the ministry accepted it and the bill was passed by a very large majority. It differed very little from a proposition which had been made a year or two before and which had been rejected by the colonies.

This was the plan of conciliation which Franklin pressed upon the Assembly with so much force and eagerness, at this May meeting in the momentous year of grace, 1775. He used every possible argument to induce the Legislature to accept it. It is somewhat remarkable, however, that an examination of his speech shows that he carefully avoided any direct statement concerning the statute itself; his references to it were in generalities, without an explanation of its conditions or terms; he did make some suggestion of what it did not ask or claim.

There were too many clear headed, keen sighted members of the Legislature who pierced the flimsy disguises of this plan of conciliation. In his speech, the Governor suggested that time should be taken

before an answer was made, so that full consideration might be given to the subject. The speech was delivered on the 16th of May, 1775. On the 18th of the same month the answer prepared by the Committee to whom it had been referred, was read to the House, amended and approved and notice given to Franklin that the Assembly was ready to attend him. The answer regrets that the proposal was not postponed until the meeting of the General Congress, which was acting for all the colonies; that New Jersey could not desert the common cause, but, would abide by the decision of that Congress. Notwithstanding this, the Assembly was ready to answer for itself, but would "pay all proper respect to and abide by, the united voice of the (Continental) Congress on the present occasion." The answer was direct, positive and spoke in no uncertain tones. It repudiated, with becoming dignity, the charge that the "Americans have deeper views and mean to throw off dependence on Great Britain and to get rid of every control of their Legislatures."

There could have been no possible misunderstanding of the decision at which the delegates had arrived and Franklin did not fail to realize it. This was manifest from his answer.

This much must be said for the Governor: His manner in the whole transaction was dignified, moderate and commendable; he was honest in his utteranees, when he urged upon the Assembly the acceptance of the measure, but whether he really believed that the plan would be adopted by the colonists, is very doubtful. He must have been aware of the fact that an almost similar proposition had been rejected, and he could have had little hope that in the state of feeling which pervaded the colony at that juncture of affairs, the plan of conciliation would be acceptable.

The Provincial Congress which had been called by the Committee of Correspondence, convened at New Brunswick, on the 23d of May, 1775. Between the time of the passage of the plan of conciliation and the meeting of this Congress, stirring events had transpired in New England. The sword had been drawn at Lexington; the patriotic militia and the British soldiers had met at Concord and war's dread realities had actually begun. The news of these two initiatory steps in the history of the war of Independence had sped through the colonies[1] it was felt and understood that the crash had come at last;

[1] An express rider with a dispatch started from Watertown, Mass., at 10 A. M. on the day Lexington was fought; relays carried it on from place to place until it reached New York, April 23,



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M. Hutchinson

that the perilous outcome of these grand incidents was a forward movement of all true hearted patriots towards a severance of the ties which bound the colonies to the mother country; and that there could be no backward movement. Those who had foreseen the future in the onward tramp of past events were prepared to meet the emergency; but, they were not many. The great majority, while dreading the uncertainties clustered around the situation, began to realize that the duty of the hour demanded that every sacrifice should be made to meet the dread responsibilities resting upon them as citizens and freemen.

It was under such circumstances as these that this second Provincial Congress of New Jersey met. There were delegates from every county—eighty-four in all—conscientious men, fully alive to the situation. Their very first measure, after examining credentials and the election of officers, was to provide for a daily petition for God's blessing and favor.

Hendrick Fisher, of Somerset, was elected President; Samuel Tucker, of Hunterdon, Vice President; Jonathan D. Sergeant, Secretary; and William Paterson and Frederick Frelinghuysen, Assistant Secretaries.

All of these names will be recognized as prominent in the after history of New Jersey, either in its civil or military service. But Congress could not rid itself of old associations, and so, it declared "that they had assembled with the profoundest veneration for the person and family of his Majesty, George III, firmly professing all due allegiance to his rightful authority and government." It continued in session until the 3d of June, when it adjourned to August 5th, then next. It was a very busy session, meeting in the morning at 8 o'clock and adjourning, sometimes, late at night. It immediately put itself in connection with the Continental Congress, sending two of its prominent members to that body with a message asking for advice as to the proper course for them to pursue and promising support for any measures which the principal body might adopt. This was done on the second day after the meeting; on the day after that, it passed a resolution by which it confirmed the action of the Continental Congress that all exportations to Quebec, Nova Scotia, St. Johns, Newfoundland, Georgia, excepting the parish of St. Johns, East and West Florida should immediately cease and that no provisions of any kind, or other necessaries, be

4 P. M.; New Brunswick the next day at 2 A. M.; Princeton the same day at 6 A. M.; Trenton at 9 A. M., from which place it was forwarded to Philadelphia. The committees of these several towns indorsed and forwarded the dispatch, noting the time of its arrival.

furnished to the British fisheries on the American coasts. It also put itself in connection with the Congresses of New York and Connecticut. It then turned its attention to the preparation for resisting any invasion of the colonies by British troops; it directed that the different townships in the colony should form themselves into military associations, each township organizing a company of no less than eighty men with four commissioned officers—a Captain, two Lieutenants and an Ensign, and the commissioned officers were to select their subordinates. These companies were to unite into battalions or regiments with four officers each—a Colonel, Lieutenant-Colonel, Major and Adjutant, and the different organizations were directed to drill themselves in military manoeuvres and each soldier was to sign a muster roll; £10,000, proclamation money, were directed to be raised by different Counties to meet the expenses incident upon the preparations for defence. The proportion of this fund to be raised by each county will give an idea of the number of inhabitants and their financial standing at that time. For instance:

Bergen was to raise	£664, 8*s.*	Hunterdon was to raise	£1363, 16*s.* 8*d.*
Essex " " "	£742, 18*s.*	Burlington " "	£1021, 13*s.* 4*d.*
Middlesex " "	£872, 6*s.* 8*d.*	Gloucester " "	£763, 2*s.* 8*d.*
Somerset " "	£903, 2*s.*	Salem " "	£679, 12*s.*
Monmouth " "	£1069, 2*s.* 8*d.*	Cumberland " "	£385, 6*s.* 7*d.*
Morris " "	£723, 8*s.*	Cape May " "	£166, 18*s.*
Sussex " "	£593, 5*s.* 4*d.*		

Persons were to be appointed by the different township committees to apportion this money amongst the tax payers. The money was to be paid to the collector who was to distribute the funds under the direction of the county committees. The last act of the Provincial Congress was to appoint fourteen persons a Committee of Correspondence, any three of whom with the President or Vice-President might convene Congress.

This Congress, for the time being, took the place of the Legislature, assumed its powers and was recognized by the people as invested with all the authority of the Assembly. It declared itself in full accord with the Continental Congress and ready to do whatever became freemen in the impending contest. In the mean time Ticonderoga had been stormed by Allen and Arnold, Bunker Hill had been fought, George Washington appointed commander-in-chief of the Continental forces and the British generals, Howe, Clinton and Burgoyne, had appeared

at Boston with additional troops to awe the rebels into submission. But submission was no more thought of and all hope of reconciliation between the rebels and the mother country was at an end.

The provincial Congress met again on the 5th of August, 1775, when the subject of raising £10,000 was again considered and means taken to have the money raised and paid in at the proper places. The inhabitants of the colony were directed to meet in their respective voting places, on the 21st of September, 1775, for the purpose of electing a deputation to a Provincial Congress to be held at Trenton on the 3rd day of October then next and it was ordered that during the continuance of the dispute between Great Britain and America, there should be an election of deputies yearly, on the 3rd Thursday of September. This Congress also prepared a more extensive plan of military organi zation, by which the militia from 16 to 50 years of age, drawn from the several counties, in proportion to the number of their inhabitants, was distributed into regiments and battalions, an exception being made in favor of Quakers, who were not required to perform military duty, but were obliged to pay an additional sum to the military fund.

The Committee of Safety appointed by this Congress was one of the most important factors in the prosecution of the efforts of the colonists to secure their independence. It met at different places during the whole of the war and was vested with absolute dictatorial powers.

It will be perceived that the plan adopted in the appointment of Committees was as complete as could possibly be devised. There were township Committees of "Correspondence," "Observation" and "Inquiry;" there were County Committees of "Correspondence" and of "Observation," also, and above all these was this General Committee of Safety; which had power of supervision over the other committees and to which those committees reported. This Committee of Safety was enlarged and finally took the whole supervision of the affairs of the colony, both military and civil. Their first meeting was held on the 30th of August, 1775, at Princeton. Their very first action gives some idea of the wide scope of their duties. They took into consideration the condition of several companies of soldiers in the province where vacancies had happened in consequence of the promotion of officers and expressed their opinion that such vacancy was to be filled by the choice of a new officer in the usual manner of election. Their next business was a provision for strolling vagabonds and runaway servants who had infested the roads, stolen horses and committed other robberies; they

recommended to the good people of the province that they should strictly examine all suspicious persons passing to and fro, and if the tramps could not give satisfactory account of themselves, they were to deal with them according to the laws of the province. This Committee of Safety met again in January, 1776, organized by the appointment of the ordinary officers and began their business. They provided for express riders to be stationed at the different towns in the province for the purpose of carrying messages to and from the different Congresses and received reports from the deputies to the Continental Congress of the proceedings of that body and acted upon them. Certain suspicious persons brought before them, were examined; committed to jail; or recognized with sureties to appear for trial upon charges for treason. Petitions were presented to them from the different counties, for the appointment of officers to regiments, battalions and companies; com missions were issued by them in pursuance of the action taken by the committees to whom such petitions were referred. They disposed of certain prisoners of war that were in the barracks at Trenton, directing their removal from their place of confinement elsewhere, so that the continental soldiers might occupy the barracks.

The Provincial Congress met again on the 10th of June, 1776, at Burlington. Several other meetings had been held, prior to that time, where the immediate questions of the hour were discussed.

The first question debated at this meeting in June, 1776, was whether the colony should declare its independence. The vote was taken June, 1776, and was determined in the affirmative by an overwhelming majority of fifty out of fifty-seven votes. On the 24th of June, a Committee was formed with the Rev. Jacob Green as Chairman, charged with the duty of preparing a constitution. The Committee reported two days afterwards, and on the 2d of July, the organic law thus reported, was adopted. This Constitution was in many respects, a remarkable document. It was apparently prepared in the short space of two days, but, in all probability, it had been planned or, at least, had received much thought from the clerical chairman before Congress assembled. The Committee was a very able one; among its members were John Cleves Symmes, afterwards one of the Associate Justices of the Supreme Court, and Jonathan D. Sergeant, both able lawyers. The Chairman and Silas Condit represented Morris County; John Cooper came from Gloucester; Jonathan D. Sergeant, from Somerset; Lewis Ogden, from Essex; Jonathan Elmer, from Cumberland; Elijah Hughes, from Cape

May; John Covenhoven, from Monmouth; and James Dick, from Salem.

The document reported by the Committee was declared by the Congress and by its own terms, to be a Constitution, but, according to the notions held in these modern times, it did not rise to that dignity. It was a mere expression of the views of the sixty-five delegates who came up from the people,. To enable it to become the organic law of a State, it must have been submitted to the people for their consent. That was never done, and it never received the sanction of the citizens of the colony, by definite action, expressed at the polls, or in any other public manner. The community submitted to it and, perhaps, by their silent consent, virtually adopted it. It is now a measure of the past and this, perhaps, is not the time to discuss it. It had many excellent provisions and some most glaring defects. The same power that created it, could have annulled it; that has not been done, but the Legislature, acting in its legislative capacity, has frequently overridden many of its most objectionable features, by mere statute. It was, evidently, prepared in haste, under most peculiar and trying circumstances and received very little consideration, scarcely any discussion from the Convention, and was adopted with most remarkable celerity. It was a crude affair; but it was somewhat of an improvement on the one under which the colony had been acting and relieved the people and their legislation from many burdens. It nowhere used the word "State," in speaking of the province, but in almost every instance employed the word "colony;" it provided that all laws should begin in the following style: "*Be it Enacted by the Council and General Assembly of this Colony.*" All commissions granted by the Governor, or Vice President of the Council, who acted for the Governor, under certain circumstances, ran in this manner: "*The Colony of New Jersey to A. B. Greeting.*" It adopted a feature of the old administration of Judicial matters when it provided that the Governor and Council should be the Court of Appeals in the last resort. Its last article was significant, by which it was provided that if "*a reconciliation between Great Britain and these colonies should take place and the latter be again taken under the protection and government of the Crown of Great Britain, this Charter shall be null and void.*"

Two days after the adoption of this remarkable document, the immortal Declaration of Independence was published to an astonished world. It would seem therefore, that at the very moment when the

Continental Congress was shutting the door against any possible hope of reconciliation with the mother country, there were some patriots in New Jersey who were dreaming of peace.

There is an interesting incident connected with the last article of the Constitution, which, it is hoped, will relieve the members, or some of them, at least, from the imputation of want of courageous patriotism. That article received opposition, when it came up for final action, and was not passed without some discussion. Just at the close of the meeting a motion was made to reconsider it. There were only twenty five of the sixty-five members present; one-third of them voted for the reconsideration and the article stood.

CHAPTER IX.

CONTENTS.

Thirteen Counties in 1776; First Mention; Four County Courts; Four Counties in East Jersey created in 1682,—Bergen, Essex, Middlesex and Monmouth; Boundary Lines; Counties might be divided into Townships; Defects in Description of Lines; Attempts to Remedy Defects; In 1693, Counties in East Jersey Divided into Townships; Somerset County, Boundary of; Tenths; Representatives from, not from Counties; Officers Appointed for Tenths, not for Counties; Courts at Burlington and Salem; Cape May, its Boundary, Change in; Line Between Burlington and Gloucester Changed; Burlington; Salem; Cape May; Bounds of Bergen, Essex, Somerset, Middlesex, Monmouth; Line Between Burlington and Gloucester; Assanpink, Pensauquin and Old Man's Creeks; Salem; Cape May; Jecak's or West Creek; Nine Counties in New Jersey at Time of the Surrender. Partition Line between East and West Jersey; Keith Line; Act of 1719 Providing for Running Partition Line; Lawrence Line; Suit Settling which the Proper Line; Cornelius vs. Giberson; Hunterdon; Hunterdon, Boundary of; Boundary Line between Somerset, Middlesex, and Monmouth; Morris County, Boundary of; Part of Essex annexed to Somerset; Cumberland, Boundary of; Townships in Cumberland; Somerset and Morris; Sussex County, Boundary of; Legislature Passes Act Allowing Counties to Change their Boundary Lines; Electors in Morris, Cumberland and Sussex Allowed to vote in their own County; Each Allowed two Representatives; Thirteen Counties in New Jersey in 1776; Townships made Corporations; Wards and Precincts; Boundary Lines of Essex, Middlesex, Monmouth, Salem, Cumberland; Cape May Defined; Warren, Bounds of; Camden, Bounds of; Ocean, Bounds of; Now 21 Counties in the State.

Whatever may have been the defects of the Constitution of 1776, and

they were many and glaring, the people of New Jersey lived under it and thrived for nearly seventy years. The country became prosperous, increasing in wealth and population, in resources and in every appliance necessary to make a great commonwealth. It became and is, one of the influential States of the Republic.

Intimate relations between the Judiciary and the Legislature were created by this new organic law; there was room for fraud, opportunity for corruption, but, to the eternal glory of New Jersey, it can be truthfully said that the judges of the court have always been above suspicion, and have achieved reputations for ability, for wisdom and for perfect integrity, which have made her honored and respected by all. The opinions of her jurists have been admired and quoted, not only by the courts of her sister States, but also, by those of England. The administration of Justice in New Jersey has been a synonym for perfect equity and impartial rectitude.

The Constitution of 1776 was a creation of the past; it has accomplished its work, and its power for good, or for evil, has ceased. For fifty years and more, the State has been acting under a new constitution, and it is therefore deemed proper not to further discuss the merits or demerits of the old one.

In 1776 when the Colony of New Jersey assumed the duties and the responsibilities of statehood, there were thirteen counties within the province, erected by colonial legislation. The first mention of counties in the public records of the colony is to be found in an act passed November 13, 1675, by the Assembly of the whole province, held at Elizabeth Town, but that mention is exceedingly indefinite. The preamble to the section where this mention appears, recites this: "Having taken into serious consideration the great Change that hath been occasioned by a Necessity of keeping Courts within this Province, as also the Necessity that Courts of Justice be maintained and upheld amongst us, which said courts may go under the Denomination of County Courts." Therefore it was enacted "that there be two of the aforesaid Courts kept in the year in each respective County, viz. Bergen and the adjacent Plantations about them, to be a County and to have two Courts in a Year, whose Sessions shall be the first Tuesday in September; Elizabeth Town and Newark to make a County and have two Courts in a Year, whose Sessions shall be the first Tuesday in March and third Tuesday in September; Woodbridge and Piscataqua to be a County and to have two Courts, the first of them the

third Tuesday in March and the second Tuesday in September. The two Towns of Nevysink to make a County, their Sessions to be the last Tuesday in March and first Tuesday in September."

There is no mention prior to this, of any county; there certainly had been none created by a direct act of the Legislature. It would have been very difficult in the then unsettled state of the country, with such an extent of land entirely uninhabited, to have laid out counties by exact boundary lines. In truth, an examination of the act to which reference has just been made, will show that there had been no counties definitely established prior to that time, and that the word "County" in the act, wherever it occurs, is merely tentative, used simply to describe generally some locality within which the courts shall be held, and not to define any particular municipality. It will be noticed that in the preamble, it is recited that the courts "may go under denomination of *County* courts," not that they shall be tribunals of justice for any particular county. It does not appear that distinctive names are given to any of these counties, as they are called, in the act.

But, at the session of the Legislature for East Jersey, held March, 1682, at Elizabeth Town, four counties were created and named Bergen, Essex, Middlesex and Monmouth, their boundary lines being thus defined: Bergen to contain "all the settlements between Hudson's River and Hackensack River, beginning at Constable's Hook and so to extend to the uppermost bound of the Province."

Constable's Hook is now the extreme southern end of Hudson County. A very erroneous idea has obtained of the meaning of this name, "Constable." The original designation of the locality was a Dutch word, "Konstapel," which, when properly translated into English, would be "Gunner's," so that the real signification of the name is Gunner's Point.

This description covers what is now Hudson County and a narrow strip of land lying north, not commensurate with the modern county of Bergen.

"Essex and the County thereof, to contain all the settlements between the west side of Hackensack River and the parting line between Woodbridge and Elizabeth Town and so to extend westward and northward to the utmost bounds of the Province." This included all of the present counties of Essex, Union, Passaic, a large part of Bergen and a part of Somerset. Had not New Jersey been divided into the east and west divisions, it would have included the whole of Morris and Sussex and large parts of Hunterdon and Somerset.



James Flemming

"Middlesex County to begin from the parting line between Essex County and Woodbridge line, containing Woodbridge and Piscataway and all the Plantations on both sides the Raritan River as far as Chesquake Harbor Eastward, extending South West to the utmost bounds of the Province." This is a most indefinite description, but, undoubtedly covers much more territory than is included in the bounds of the modern county as now defined. "Chesquake Harbor" is now known as Cheesequake, which designates a small stream flowing from near Jacksonville, in the county, into Raritan Bay, a few miles south of Amboy.

"Monmouth County to begin at the Westward bounds of Middlesex County, containing Middletown and Shrewsbury, and to extend Westward, Southward and Northward to the utmost bounds of the Province."

The Legislature undoubtedly intended to carve these counties out of the territory belonging to East Jersey and to have included all that territory. It could have done no more; it ought have done no less. But the descriptions were so indefinite that subsequent legislation was required to describe more correctly the boundaries of these and other counties so as to prevent confusion and a conflict of civil and criminal jurisdiction. Many difficulties were experienced from this want of correctness. Officers were unable to perform their duties properly, not knowing the exact boundary lines. In 1692, the Legislature of East Jersey held at Perth Amboy, attempted to remedy the evil.

An act passed in 1692, referred to above, and entitled "An act for dividing each county into Townships" provides for the division of the counties created by the act of 1682, without mentioning any names, into "Townships, Tribes or Divisions by certain Bounds and Limits." It authorized the inhabitants at a county meeting "to be appointed for that end by Warrant from two Justices of the Peace or one of the Quorum to set and ascertain the Limits and Bounds of each and so many Towns or Divisions as they or a Committee chosen by them the said meeting shall see meet." No Towns which had been chartered could be interfered with and when the counties were better settled and inhabited other subdivisions might be made. The act required that a report of any subdivisions made by virtue thereof should be recorded in the public records of the province before the 21st of October, 1692. Whether any such report was ever made or not, cannot now be ascertained.

At the meeting of the Legislature held at Perth Amboy, on the 12th

day of October, 1693, an act was passed with the same title as that of the preceding year, which enacted that the four counties of Bergen, Essex, Middlesex and Monmouth should be divided into townships, defining their bounds and giving them names. Like the other, it had a provision in it that there might be other divisions, as the counties became more settled.

On the 14th of May, 1688, the county of Somerset was created by an act of the Legislature which then met for East Jersey, at Perth Amboy. It was the third act passed at that session and was entitled "An act for dividing the County of Middlesex into two counties." The preamble recited the reason for its passage in this manner: "Forasmuch as the uppermost Part of Rariton River is settled by persons whom (sic) in their Husbandry and manuring their land, forced upon quite different ways and methods from the other Farmers and Inhabitants of the County of Middlesex because of the frequent Floods that carry away their Fences on their Meadows the only arable Land they have and so by consequence their interest is divided from the other Inhabitants of said County." It was therefore enacted that the "said uppermost Part of the Rariton, beginning at the mouth of the Bound Brook, where it empties itself into the Rariton River and to run up the said Brook, to the meeting of the said Bound Brook with the Green Brook, and from the said meeting to run upon a North West line into the Hills and upon the South West side of Rariton to begin at a small Brook, where it empties itself into the Rariton, about seventy chains below the Bound Brook and from thence to run upon a South West Line to the uttermost line of the Province, be divided from the said County of Middlesex and hereafter to be deemed taken and be a County of this Province; and that the same County be called the County of Somerset."

This is all there is of the act which created the County of Somerset and, according to the notions of modern times, it is a most primitive method of organizing so important a body politic as a County. The act was a simple declaration that an extent of country, very uncertainly described, was to be a county; that was all—nothing more. It required after legislation to remedy the defect and, in process of time, that legislation came, as indeed it was absolutely necessary.

At a meeting of the Legislature of West Jersey, held November 3rd, 1685, an act was passed with this preamble: "Whereas this Province hath been formerly divided into three Counties for the better regulation thereof." A critical examination of all accessible public records, in-

cluding the laws passed from the first legislative meeting in the province, in 1668, until 1685, fails to reveal any organization of counties, either in the whole colony, before the division, or in East and West Jersey after, except that passed in 1675, already mentioned. But four counties, and they were in East Jersey, were created by that act and in that of 1685, three are mentioned and they were in West Jersey.

In the month of May, 1682, the Legislature of West Jersey, at its second session, met at Burlington. It was composed of thirty-three representatives, elected and chosen by "the free People of the Province aforesaid, within their respective Tenths." Justices, Sheriffs, Clerks and Recorders were appointed for "the jurisdictions of Burlington and Salem"; no constables were selected for these localities, but those officers were appointed for the first Tenth, called "the Yorkshire Tenth"; for the second Tenth called "The London Tenth" and for the third Tenth.

At this same session, it was enacted "that there shall be four courts of session held at Burlington and Salem yearly." These courts would need Justices, Sheriffs, Clerks and Recorders. Provision was also made, but very loosely, for "smaller courts *oftner* (if need require) both at Burlington and Salem, to be appointed by the Justices, as they see fit." There is no mention in any of the acts of West Jersey, up to 1685, of any counties; no reference whatever to any such creations. Whenever it became necessary to provide for tax to be raised, representatives elected or meetings of citizens, the *tenths*, not counties, are mentioned.

Burlington was the capital of the province, so declared by special act of the Legislature; Salem was a port of entry, at the head of navigation on the Salem River; and the two towns were the largest and most important in the province. One was near the northern line of division and the other at the southern. It is not at all strange, therefore, that the Assembly should provide courts at two such localities, so as to meet the wants of litigants, at points where they could be most conveniently reached.

By the act of 1685, already referred to, Cape May County was created and its bounds thus defined: "To begin at the utmost flowing of the tide, in Morris River Northerly, being about twenty Miles from the mouth of the said River, and thence by a Line running Easterly to the most Northerly point of Great Egg Harbour, and from thence Southerly along the sea to the point of Cape May and so round the

same, then northerly along the West side of Cape May and so Westerly along the Coast and so up the East side of Morris River aforesaid to the first point mentioned." Cape May County, at present, retains almost the same boundaries as are here described, except that Morris, or, as it should be written, Maurice River, is not now its western boundary. A whole township called Maurice River township, has been taken from Cape May and added to Cumberland.

In the same year and at the same session of the Legislature, the boundary line between Burlington and Gloucester counties was defined. The residents about "Pensaukin Creek" had presented several petitions to the Assembly, representing that there was dissatisfaction relative to the division line between the two counties. A Committee of four members of the Assembly was appointed "to review the place and according to their judgment and discretion to fix the line of partition between the said Counties." That Committee examined into the matter and reported a division line to the Legislature which adopted their determination and passed a law according to the committee's report, but, at the next session, the law was repealed.

At the meeting of the Legislature beginning on the 12th of May, 1694, and ending on the 17th of the same month, five laws were passed relating to the counties of West Jersey. One referred to Burlington County and enacted "that the two Distinctions or Divisions heretofore called the first and second Tenths, be and is hereby laid into one County, named and from henceforth to be called the County of Burlington, the Limits whereof Bounded with the River Derwent (formerly called Sunpink) on the North, and the River Crapwell (formerly called Penisawken) on the South." Another defined the boundaries of Gloucester County in this manner: "That the two Distinctions or Divisions heretofore called the third and fourth Tenths, be and is hereby laid into one County, named and from henceforth to be called the county of Gloucester, the Limits whereof are as follows: Bounded with the aforesaid River, called Crapwell on the North, and the River Berkley, (formerly called Old Man's Creek) on the South." These two acts present grave doubts, notwithstanding the law of 1692, as to the prior existence, by virtue of any act of the Assembly, of these two counties.

Another of the five acts passed in 1694, is entitled "An act for Boundaries of Salem County," and provides "that the Jurisdiction of Salem Court shall extend from the aforesaid [?] Berkley River on the

North, to the River Tweed, formerly called Back Creek, on the south, and is hereby named and from henceforth called the County of Salem."

The title to another of these acts is this : "An act for the Inhabitants above St. Pink, to belong to Burlington County for present." This statute enacts "that all Persons in this Province above the River Derwent, (being the Northern Boundary of the County of Burlington) shall belong and be subject to the Jurisdiction of the Court of Burlington, until further order of the General Assembly."

By the fifth act referred to, the boundary of Cape May County was regulated and Egg Harbour added to the County. The act recited that the bounds of the county had not been distinctly enough described, and for the better regulating thereof, it was enacted that the boundary line should be as follows: "Begin at the mouth of Prince Morris (Maurice) River, from thence to run up the said River so far as the Tide flows, from thence to the middlemost great River that *runeth* into the Bay of Great Egg Harbour, so far as the Tide flows up the same, and thence down said River into the said Bay, Bounded by Egg Harbour Bay, on the North East, the main Ocean on the South East, Delaware River on the South West and the said Morris River, as aforesaid, on the North West." This description is quite definite and there is very little difficulty in understanding it.

An act passed at the same session settles the fact that there were only four counties in West Jersey, at that time,—Burlington, Gloucester, Salem and Cape May. The law to which reference was last made, provided for the times and places for holding elections in those four counties and for the number of the representatives from each, in the Assembly.

At the time of the surrender to Queen Anne, there were five counties in East Jersey,—Bergen, Essex, Somerset, Middlesex and Monmouth, and, in West Jersey, there were four,—Burlington, Gloucester, Salem and Cape May.

On the 21st of January, 1709–10, the Legislature enacted a law entitled "An act for dividing and ascertaining the Boundaries of all the Counties of this Province." The Preamble to this act states the reason of its passage to be that "by the Uncertainty of the Boundaries of the Counties of this Province great inconveniences have arisen, so that the respective officers of the most of these counties cannot know the Limits of them." Bergen's lines were thus defined: "The County of Bergen shall begin at Constable's Hook, and so run up along the Bay and Hud-

son's River to the Partition Point between New Jersey and the province of New York and so run along the Partition Line between the Provinces and the Division Line of the Eastern and Western Division of this Province to Pequanneck River and so to run down the Pequanneck and Pessaick Rivers to the Sound; and so to follow the Sound to Constable's Hook, where it began."

The County of Essex "shall begin at the Mouth of Raway River where it falls into the Sound, and so to run up the said Raway River to Robeson's Branch; thence West to the Division Line between the Eastern and Western Division aforesaid, and so to follow the said Division Line to Pequanneck River, where it meets Pessaick River; thence down Pessaick River to the Bay and Sound; thence down the Sound to where it began." Robeson's Branch mentioned in this description, is now called Robinson's branch and empties into Rahway River at the city of that name.

"The County of Somerset begins where Bound Brook empties itself into Raritan River; thence down the stream of Raritan to the mouth of a Brook known by the name of Lawrence's Brook, thence running up the said Lawrence's Brook to the Great Road that leads from Inian's Ferry to Cranberry Brook; from thence South Forty-four degrees Westerly to Sanpinck Brook, thence down the said Sanpinck Brook to the said Division Line of the Eastern and Western Division aforesaid, and so to follow the said Division Line to the limits of the aforesaid County of Essex; thence East along the Line of Essex County to Green Brook; and thence running down said Green Brook and Bound Brook to where it began."

"Inian's Ferry" mentioned in this description was a ferry kept by a man and his wife named Inian and crossed the Raritan at the place where the city of New Brunswick is now situated. The Proprietors leased this ferry to Inian and his wife and to the survivor, on the 2d of November, 1697, at an annual rent of 5 shillings, sterling money. The "great road" is probably the road from New York to Philadelphia.

"The County of Middlesex begins at the Mouth of the Creek that parts the Lands of George Willocks, and the Land that was formerly Captain Andrew Bowne's, deceased, thence along the said Captain Andrew's Line to the Rear of the said Land; thence upon a direct course to Warn's Bridge on the Brook where Thomas Smith did formerly live; thence upon a direct course to the South East Corner of Bar-

clay's Tract of Land that lies near Matchiponix; thence to the most southernmost Part of said Tract of Land, including the whole Tract of Land in Middlesex County; thence upon the direct Line to Sanpinck Bridge, including William Jones, William Story, Thomas Richman and John Guyberson in Monmouth County; thence along the said road to Aaron Robins's land; thence Westerly along the said Aaron Robins's Line and James Lawrence's Line to the Line of the Eastern and Western Division aforesaid, including the said Robins and Lawrence in Monmouth County; thence Northerly along the said Line to Sanpinck Brook, being part of the Bounds of said Somerset County, thence following the Lines of Somerset and Essex Counties, and so to the Sound, and thence down the Sound to Amboy Point and thence to the Creek where it first began." It is difficult to place these boundary lines; they depend too much upon land owned by individuals and not upon natural objects, like a river or a creek. George Willocks and Andrew Bowne were both very prominent men in New Jersey, in their day. Willocks took a leading part in the quarrel between Governor Morris and the Assembly and was one of the commissioners to fix the boundary line between New York and New Jersey. Andrew Bowne was a member, at one time, of the Governor's Council. Sanpinck Brock is the Assanpink, which empties into the Delaware at Trenton. It is called by various names in the records of New Jersey; such as St. Pinck, Sunpink, Sunpinck and Assanpinck; it has borne its present name for a century and more. The name St. Pinck is given to it in the title to one of the acts relative to counties, already quoted.

The County of Monmouth "begins at the mouth of the Creek aforesaid that parts the Land of Captain Andrew Bowne, deceased, and George Willocks; thence following the Line of Middlesex County to the Line of the Eastern and Western Division aforesaid; thence Southerly along the said Division Line to the Sea; thence along the Sea to the Point of Sandy Hook; thence up the Bay to the aforesaid Creek where it first began."

"The Line of Partition between Burlington and Gloucester County begins at the Mouth of Pensauquin, alias Cropwell (Crapwell) Creek; thence up the same to the Fork; thence along the Southermost Branch thereof, sometimes called Cole Branch, until it comes to the head thereof, which is the Bounds betwixt Samuel Lipincote's and Isaac Sharp's Land; thence upon a straight line to the Southermost Branch of Little Egg Harbour River, including the said Sharp's Land in

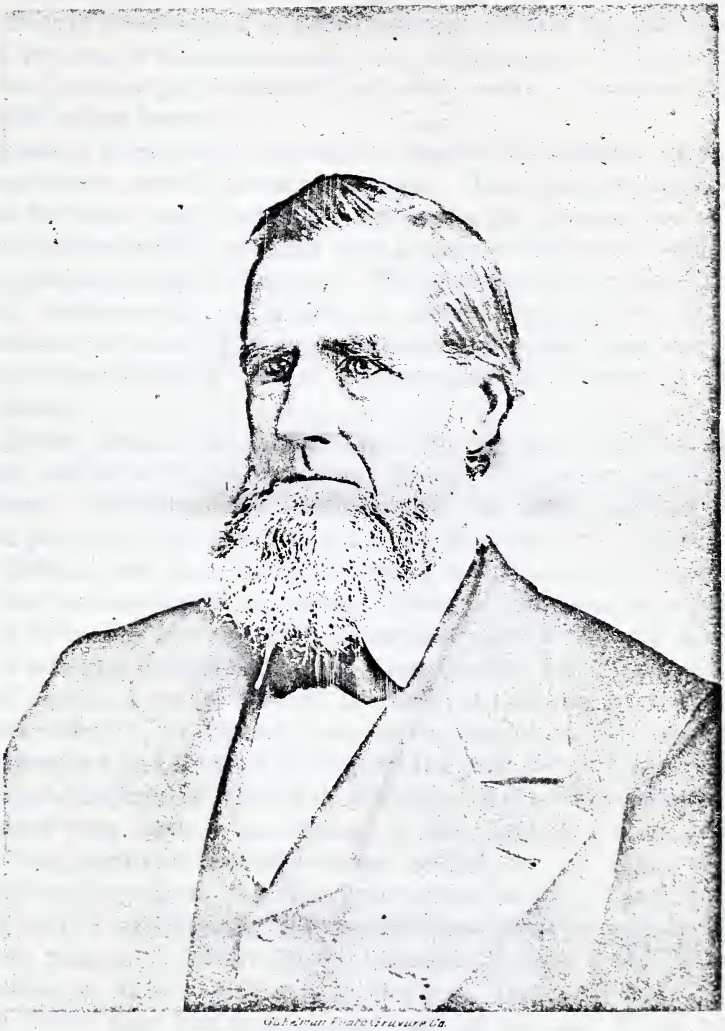
Gloucester county; thence down the said Branch and River to the Mouth thereof; thence to the next Inlet on the South side of Little Egg Harbour's most Southerly Inlet; thence along the Sea coast to the Line of Partition between East and West Jersey; thence along the said Line of Partition by Maidenhead and Hopewell to the Northermost and uttermost Bounds of the Township of Amwel; thence by the same to the River Delaware; thence by the River Delaware to the first mentioned station."

"Gloucester County begins at the Mouth of Pensauquin Creek; thence up the same to the Fork thereof; thence along the said Bounds of Burlington County to the Sea; thence along the Sea Coast to great Egg-Harbor River; thence up the said River to the Fork thereof; thence up the Northermost and greatest Branch of the same to the Head thereof; thence upon a direct line to the Head of Oldman's Creek; thence down the same to Delaware River; thence up Delaware River to the Place of Beginning."

This Pensauquin Creek is now a part of the boundary line between Burlington and Camden; it still retains the same name with a slight change in the orthography, but not in its pronunciation. Oldman's Creek is a part of the division line between Gloucester and Salem. The name seems to be a favorite in West Jersey, as there is a township still called Oldman's, in Salem County.

"Salem County begins at the Mouth of a Creek on the West side of Stipson's Island, commonly called Jecak's Creek; thence up the same as high as the Tide floweth; thence upon a direct Line to the mouth of a small Creek at Tuckahoe, where it comes into the southermost Main Branch of the Fork of Great Egg Harbour River; thence up the said Branch to the Head thereof; thence along the Bounds of Gloucester County to Delaware River; thence down Delaware Bay and River to the Place of Beginning."

"Cape May County begins at the Mouth of a small Creek on the West side of Stipson's Island, called Jecak's Creek; thence up the said Creek as high as the Tide floweth; thence along the bounds of Salem County to the Southermost main Branch of Great Egg Harbour River; thence down the said River to the Sea; thence along the Sea Coast to Delaware Bay and so up the said Bay to the Place of Beginning" Jecak's Creek is now called West Creek and is a small stream running into the ocean, forming a part of the boundary line between Cape May and Cumberland



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The same act which thus revised the boundaries of the several counties, also made provision for the administration of justice in Somerset. As that County was deemed to be too sparsely settled for independent courts of its own, it was placed under the jurisdiction of those of Middlesex, but jurors might be taken from either county "promiscuously" for the trial of any cause.

Every one of these nine counties was materially changed by subsequent legislation, as will hereafter appear. The descriptions as just given are the first, really definitely settled, by the Legislature—all of them were undoubtedly prepared with great care and were easily understood by those living at the time. The changes in the nomenclature of natural divisions may be traced by careful examination, but the lines between the farms of individuals must long since have been lost, and it will be exceedingly difficult to determine the bounds by reference to them.

The history, then, of the counties in New Jersey, at the time of the surrender, begins with nine counties; five in East Jersey and four in West Jersey. Although the whole colony was again, at that time, made one province and subject to the same Governor and Legislature, yet the division into East and West Jersey is still necessarily referred to, and has been constantly in dispute. Many of the counties impinged upon this boundary line and were dependent upon it for true descriptions. It was first established in the Quintipartite Deed dated July 1, 1676, and executed by Sir George Carteret, of the first part, William Penn, of the second part, Gawen Laury of the third part, Nicholas Lucas of the fourth part and Edward Billinge of the fifth part. These persons were then the owners, as tenants in common, of the whole colony, and by this deed they made a partition of it into East and West Jersey. This was the partition line which they settled, by the deed, should divide the two provinces; the description must be quoted entire so as to obtain its full significance: "From the East side of a certain Place or Harbour lying on Southern Part of the same Tract of Land and commonly called or known in a map of the said Tract of Land, by the Name of Little Egg Harbour, to that part of the said River called Hudson's River, which is in Forty-one Degrees of Lattitude being the furthermost part of the said Tract of Land and Premises which is bounded by the said River, and crossing over from thence in a strait Line extending from that part of Hudson's River aforesaid to the Northermost Branch or Part of the before mentioned River called Del-

aware River, and *to the most Northerly Point of Boundary of the said Tract of Land and Premises so granted by his Royal Highness James, Duke of York, unto the said Lord Berkeley and Sir George Carteret, now by the Consent and Agreement of the said Parties to these Presents called and agreed to be called the North Partition Point, and from thence, that is to say from the said North Partition Point extending Southward by a strait and direct Line, drawn from the said North Partition Southward, thro' the said tract of land unto the most Southardly Point of the East side of Little Egg Harbour aforesaid; which said most Southardly Point of the East side of Little Egg Harbour is now by the Consent and Agreement of the said Parties to these Presents, called and agreed to be from henceforth called the South Partition Point: And which said strait and direct line drawn from the said North Partition Point thro' the said Tract of Land, unto the South Partition Point, is now by the Consent and Agreement of the said Parties to these Presents, called the line of Partition which is the Line hereinbefore mentioned to be intended by the said Consent and Agreement of the said Parties for the Dividing and making a Partition or Separation of the said Easterly Part, Share and Portion from the Westerly Part, Share and Portion of the said Tract of Land and Premises so conveyed by his said Royal Highness aforesaid.*" It would seem that there should have been no difficulty in determining this "Line of Partition"; there were two certain points designated between which the line was to be run, and it was to be a "strait and direct line."

Two Partition lines have been surveyed differing very materially; one by George Keith, in 1687, under the direction of the Proprietors of East Jersey. This was only extended to the Raritan River. On the 5th of September, 1688, an agreement was made between the Governors of the two provinces, Robert Barclay of East Jersey, and Daniel Coxe, of West Jersey, on the behalf of their respective Boards of Proprietors that "the line of partition run strait from little Egg Harbour to the most Westerly corner of John Dobie's plantation, as it stands on the south branch of Raritan River, shall be the bounds so far between East and West Jersey and shall not be altered." This was the line which George Keith ran, in 1687. The agreement then provided for a further continuation of the line in this manner: "From thence to run along the back of the adjoining plantations, untill it comes to James Dundass, his plantation; and from thence, at the most north westerly part thereof, a line to lye down with a line on the back of these plant-

ations and so to run North Eastward, till it touch the North branch of Rariton River as it is struck upon the map already; but saving the plantations already laid out, to be within the line, if they happen to stand a little more westerly than that line is marked. From the northward of the line, where it touches Rariton's north branch; thence forward the largest stream or current of water belonging to the said North branch, shall be the bound or partition; and so continuing along the same unto the north end thereof, for the bounds so far. From the said north end, a short straight line to touch the nearest point of Passaick River; and so following the course of that river, continuing Poquannick River so long as it runs Northerly or Northwesterly; these rivers still to be the bounds between both Provinces; and if Poquannick river do not run far enough to the latitude of forty one degrees, thence from the said river a strait line to be run northward to the latitude; and that to be the utmost north partition point, and from the said point in a strait line due East to the Partition point in Hudson's River between East Jersey and West Jersey." The line mentioned in this agreement was not at all in accordance with the Quintipartite deed, and much controversy originated between the Proprietors of the two divisions, which really, so far as can be judged by any records, was never settled. The Proprietors of West Jersey complained that by this line and the Keith line East Jersey would secure more than its due proportion of land, and that the part of the province which it obtained by the division was more valuable than the other, not only by reason of the richness and fertility of the soil, but by the fact that it contained larger towns and a greater number of inhabitants. A very serious question was raised as to the power of the Governors to bind the Proprietors of the province by the agreement.

On the 27th of March, 1719, an act was passed, the title to which fully explains its object. "An act for running and ascertaining the Line of Partition or Division between the Eastern and Western Divisions of the Province of New Jersey, and for preventing Disputes for the Future concerning the same; and for securing to the General Proprietors of the Soil of each of the Divisions, and Persons claiming under them, their several and respective Possessions, Rights and just Claims." This act is a long one, but is important in many respects and will aid greatly in settling the questions relative to the true line of Division. It declares by its first section: "That the said Line, that is to say, a strait and direct Line from the most Northerly Point or Boundary of

this Province of New Jersey on the northermost Branch on the River Delaware unto the most Southerly Point of a certain Beach or Island of sand, lying next and adjoining to the main Sea, on the North Side of the Mouth or Entrance of a certain Inlet, Bay or Harbour, commonly called and known by the name of Little Egg Harbour, is and shall forever hereafter remain and be the Line of Partition and Division betwixt the Eastern and Western Division of the Province." The law makes ample provision for establishing the rights of parties who may have located lands in such a manner as to be affected by a change of the line, so that if they have derived title from the wrong Board of Proprietors, their title shall nevertheless be assured to them. The Surveyors General of the two provinces were directed to keep public offices for their respective divisions, that for East Jersey, at Amboy and that for West Jersey, at Burlington. The Proprietors of each province were directed to raise the necessary funds to pay the expenses of running the line as fixed by this law. The obvious intent of the statute, apparent all through its sections, was to establish a line of partition that would be satisfactory to all concerned and to make provision for any possible contingency that might arise, so that exact justice should be done to those interested in the settlement of the vexed question.

In 1743, a new line was run called the Lawrence line. But prior to that time, persons had located land in both provinces according to the Keith survey, and this led to difficulty and constant disputes. Much has been published on the subject of this partition line, but the well considered judgment of a competent court would tend more to settle the question than all the literature that could be written. In 1855, a suit was brought involving a large extent of land and in which the uncontroverted facts were such that the issue between the Keith and the Lawrence lines was fairly presented. Several thousand acres were claimed in an action of trespass; the Plaintiff claimed through a title derived from the East Jersey Proprietors, for land lying in the "*Gore*" between the two lines. The Defendant claimed through a title derived from the West Jersey Proprietors and also, through adverse possession for twenty years. The cause was tried at the Circuit before Justice Potts of the Supreme Court. He decided that the East Jersey title must prevail, but a verdict was rendered for the Defendant upon his claim of title arising from adverse possession. The Plaintiff brought a writ of error but, unfortunately, the question of the two titles could not be passed upon by the appellate court, as the Judge who tried the

case below had decided for the Plaintiff, on the question of title, and the Plaintiff below was Plaintiff in error. Chief Justice Green rendered the decision of the court above on the writ, but decided the case on the ground that the claim of title from adverse possession was not sustained. He did not touch the issue raised between the parties on the two different titles, under which they claimed. It would have been exceedingly satisfactory to have obtained the opinion of so eminent a jurist as Chief Justice Green, on the main question in the case. This case is that of Cornelius v. Giberson, 1 Dutcher, 1. In a recent case in equity, Proprietors of East Jersey v. Force, the issue between the two lines of division came up collaterally, before Vice Chancellor Pitney. He refers, in his opinion, to the two lines and says this: "The Lawrence line, however, was finally determined to be the true line of division, in the case of Cornelius v. Giberson, 1 Dutch., 1." Both of these cases were tried by some of the ablest Counsel in the State and the opinions of the Judges who decided them are each entitled to the highest consideration. It is unfortunate, however, that the question at issue between the two titles involved in the case at common law, could not have been presented in the case on appeal, so as to have received a more authoritative determination than could be reached by a circuit Judge. In the case in equity, the opinion of the Vice Chancellor, an exceedingly able one, did not settle the question as to which was the correct line, the Keith or the Lawrence, except where the Vice Chancellor declared that that had been decided in the case of Cornelius v. Giberson.

On the 11th of March, 1713–14, the County of Hunterdon was created by an act of the Legislature by this description: "All and singular the Lands and upper Parts of the said Western Division of the Province of New Jersey, lying Northwards of or situate above the Brook or Rivulet commonly called Assanpinck be erected into a County to be called the County of Hunterdon; and the said Brook or Rivulet . . . shall be the Boundary Line between the County of Burlington and the said County of Hunterdon."

The Boundary lines between Somerset, Middlesex and Monmouth were defined in this manner, by an act passed March 15, 1713–14. "The Boundary Line between Somerset and Middlesex Counties shall be and begin where the Road crosseth the River Rariton at Inian's Ferry, and run from thence along the said Old Road by Jedediah Higgin's House, leading towards the Falls of the Delaware as far as the Eastern Division of this Province extends."

"The boundary line between Middlesex and Monmouth Counties shall be and begin at the Mouth of the Creek that parts the land of George Willocks and the land that was formerly Captain Andrew Bowne's, deceased; thence along the said Captain Andrew Bowne's Line to the Rear of the said Land; thence upon a direct course to Warn's Bridge on the Brook where Thomas Smith did formerly live; thence upon a direct course to the South East Corner of Barclay's Tract of Land, that lies near Matchiponix; thence to the most Southernmost part of said Tract of Land including the whole Tract of Land in Middlesex County; thence upon the direct Line to Assanpinck Bridge on the high Road, including William Jones, William Story, Thomas Ruckman and John Guyberson, in Monmouth County; thence Westerly along said Road to Aaron Robins's land; thence Westerly along said Aaron Robins's and James Lawrence's Line to the Line of the Eastern and Western Division aforesaid."

On March 15, 1738–39, Morris County was set off from Hunterdon by this description: "All and singular the Land and upper Parts of the said Hunterdon County lying to the Northward and Eastward, situate and lying to the Eastward of a well known place in the County of Hunterdon, being a Fall of Water, a Part of the North Branch of Rariton River, called in the Indian Language, or known by the name of Allomatonck, to the Northeastward of the Northeast End or Part of the Lands called the New Jersey Society Lands, along the line thereof crossing the South Branch of the aforesaid Rariton River, and extending Westerly to a certain Tree marked with the Letters L. M., standing on the North side of a Brook emptying itself into the said South Branch by an old Indian Path to the Northward of a Line to be run Northwest from the said Tree to a Branch of Delaware River called Muscknetcong, and so, down the said Branch to Delaware River; all which said Lands being to the Eastward Northward and Northwestward of the above said Boundaries, to be erected into a County . . . to be called Morris County." Until the new County thus created was permitted to vote independently by Delegates in the Assembly, the Electors there resident within its limits were obliged to go to Trenton, as formerly and there choose their representatives. Morris County was named after Lewis Morris, the Governor, who had succeeded in securing a government for New Jersey independent of New York.

On the 4th of November, 1741, an act with this title was passed: "An act to annex part of the County of Essex to the County of Somerset and

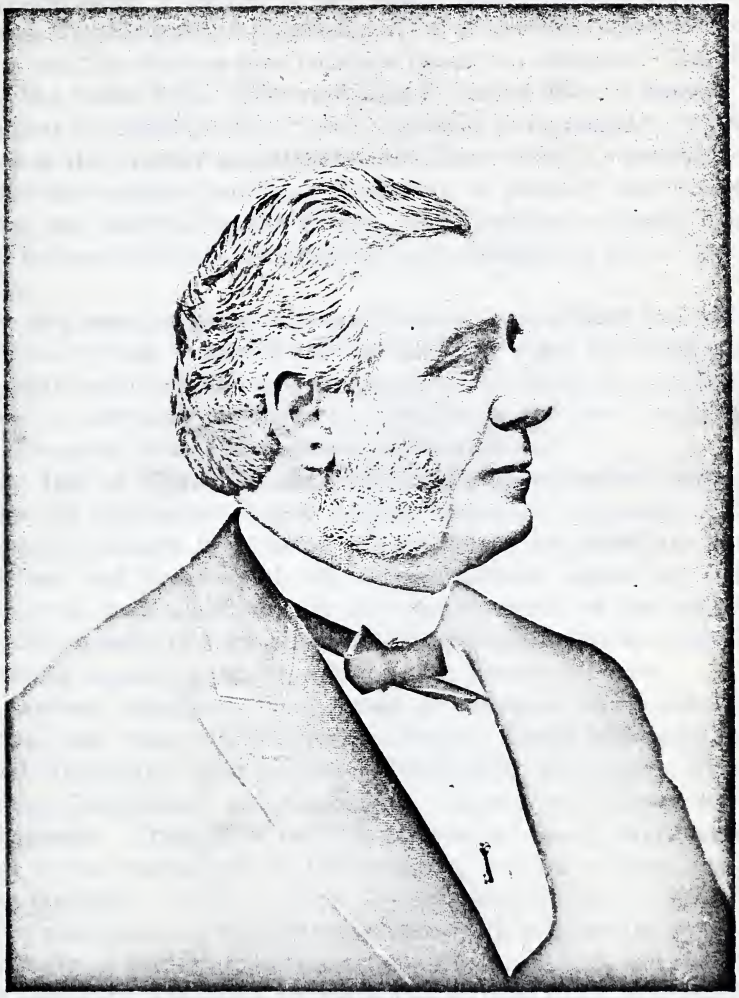
to ascertain the Bounds thereof." By the operation of this act a considerable extent of country in the southern and western parts of Essex was taken from that County and added to Somerset. The ill defined lines of both counties, settled by former legislation, had led to constant difficulties and this change seems to have become absolutely necessary.

Cumberland County was created by an act passed January 19th, 1747–8. The bounds of the new county, as defined by this act, were as follows: "Beginning in the county of Salem, at the mouth of Stow Creek and running up the same unto John Brick's Mills, leaving the said Brick's Mills within the County hereby erected; then continuing still up Stow Creek Branch to the house where Hugh Dun now dwells, leaving said Hugh Dun within the new County; and from the said Hugh Dun's House upon a straight Line to Nathan Shaw's House, leaving said Nathan Shaw's House within the new County; and then on a Northeast course until it intersects the Pilesgrove Line, leaving Pilesgrove within Salem County; then along the said Line till it intersects the Line which divides the Counties of Gloucester and Salem; then running Southeastward down Gloucester Line unto the Boundaries of Cape May County; then bounded by Cape May County to Delaware Bay; and then up Delaware Bay to Place of Beginning." Jonathan Belcher was Governor of New Jersey at this time and he named the new county after the Duke of Cumberland. The law, under which Cumberland became a county, was much fuller in its provisions than any prior legislation of the same character; it provided that the electors should vote at Salem as heretofore, until they were able to vote indepedently; that all taxes should be assessed and paid as by law was then directed; it created six precincts within the new municipality, defined their bounds and named them, Greenwich, Hopewell, Stow Creek, Maurice River, Fairfield and Deerfield; all of these names are still retained for townships in Cumberland.

In March, 1749, an act was passed "to ascertain the Line and Bounds between the Counties of Somerset and Morris." The exact line of division between these two counties running from the Falls of Allamatunk to the Passaic River had not been exactly defined in the prior acts, one passed the 21st of January, 1709–10 and the other on the 15th of March, 1738–9, no course being mentioned, "nor where to fix upon the Passaic." In consequence of this, "it remains uncertain, and very prejudicial to the Inhabitants, and a great Obstruction to the officers of the said Counties in the discharge of their Duties; For Remedy whereof," the line was more definitely described.

Sussex County was taken from Morris by an act passed June 8, 1753. The bounds of this new County were thus defined by the act: "All and singular the Lands and upper Parts of said Morris County Northwest of Muskonetkong River, Beginning at the Mouth of said River, where it empties itself into Delaware River, and running up said Muskonetkong River to the head of the Great Pond; from thence Northeast to the Line that divides the Province of New York and said New Jersey; thence along the said Line to Delaware River aforesaid; thence down the same to the Mouth of Muskonetkong, the Place of Beginning." The Great Pond was once called Brookland Pond, but is now known as Lake Hopatcong. Since Sussex County has been erected the water in this Lake has been raised eight feet above its original level, to meet the demands of the Morris Canal.

The inhabitants of the province had long appreciated the difficulties arising from the uncertain descriptions of the boundary lines of the Counties, and applied to the Legislature to provide some means for remedying the defects. On the 28th of November, 1760, an act was passed which, it was thought, would relieve the people. This law provided for the "running and marking the Lines between the several Counties and Townships of this Colony," in this manner; whenever a majority of the Freeholders of any County chosen or to be chosen by virtue of an act passed February 28, 1713–14, should adjudge it necessary, it should be lawful for them, in conjunction with three Justices of the Peace for that County, to agree with a surveyor and other necessary persons to run out and mark the lines of the Counties as ascertained by law. But before the Surveyors should begin their work, one month's notice in writing was required to be given to two Justices of the other County to be affected by the survey, so that persons for that County might be appointed to perform the like services. If none were selected then the surveyors first appointed might perform the required duties. Trees which were found in the lines so to be run were to be marked "on one side with the first letter of the County, Town or Precinct on that side; and on the other side with the first Letter of the County, Town or Precinct on that side." The surveyors were required to keep field books, make maps and to deposit copies in the offices of the Clerks of the respective Counties, where they were to be recorded and the originals were to be transmitted to the offices of the Secretaries of the respective Divisions in which the counties were situated.



Yours truly
Olga A. Halsey

Notwithstanding the passage of this act, it was ascertained by actual experience that it did not effectually answer the purpose of its enactment Soon after it became a law, the Freeholders and Justices of Salem and Cumberland, in pursuance of its provisions, appointed surveyors to run the division line between those two counties. But after running the boundaries, they were found "in no wise to answer the expectations of either County"; and "the said Commissioners conceiving it not in their power to settle the said Lines in such a manner as to be conclusive to both Counties. Therefore to prevent any inconvenience that may happen for the Future," the Legislature fixed a boundary line between the two Counties by an act passed the 7th of December, 1763.

By the acts creating the Counties of Morris, Cumberland and Sussex, the electors of those counties were to cast their votes for delegates to the Legislature at their accustomed places and to continue so to do until there was a sufficient number of inhabitants in those counties to entitle the voters to an independent representation.

On the 10th of May, 1788, the Legislature passed an act providing that after the dissolution of that present Assembly, whenever a General Assembly should be "called," writs should be issued to Morris, Cumberland and Sussex and two representatives should be elected from each of those counties. It was also enacted, as the county of Morris was situated in both divisions of the colony, that the provincial taxes should be paid to the Treasurer of the Eastern division.

The thirteen counties in New Jersey, in existence on the 4th day of July, 1776, were these: In East Jersey, Bergen, Essex, Middlesex, Somerset and Monmouth; in West Jersey, Hunterdon, Burlington, Gloucester, Salem, Cumberland and Cape May. Morris and Sussex were in both divisions. From 1776 to 1783, the year of peace, there were no changes in the boundaries of the counties, nor were there any new counties created.

As the population of the province increased, so grew the many and diverse wants of the communities gathered in townships, and the necessity became more and more apparent for clothing those municipalities with corporate powers, so that contracts could be legally made to bind, not only the townships, but also those persons with whom it should become necessary to contract. These capabilities could not be obtained while those bodies were simply an aggregation of individuals. The Legislature was, therefore, led to create corporations out of the town-

ships of the various counties. On the 21st day of February, 1798, the Assembly passed an act, the object of which appears in the first section, which declares "that the inhabitants of every township, precinct and ward within this State be and they hereby are constituted a body politic and corporate in law by the following names, that is to say." Each township in all the counties was then created by name a corporation, in this manner: "The inhabitants of the township of New Barbadoes in the County of Bergen, shall be styled and known by the name of 'The inhabitants of the Township of New Barbadoes, in the County of Bergen.'" By the passage of this act one hundred and three corporations were created, there being that number of townships in the State. There are one or two peculiarities in this law which are interesting. There were four wards in Middlesex, two in Perth Amboy and two in New Brunswick; the North Ward in the first, was incorporated under the name of the township of Perth Amboy; the South Ward, under that of South Amboy; the North Ward in the latter, under the name of the "Township of North Brunswick" and the South Ward, under that of "South Brunswick." In Middlesex there were two precincts, the eastern and the western; they became corporations under the names of the Townships of Franklin and Montgomery. In Cumberland, six out of the seven corporations were originally precincts, but became townships. In Sussex, out of the fifteen corporations, eleven were at first precincts, and in Cape May, all three of the townships were originally precincts.

On the 29th of October, 1822, an act was passed with this title: "A further Supplement to an act entitled 'An act for dividing and ascertaining the boundaries of all the counties in this province' passed the 21st day of January, 1709." By this Supplement, the boundaries of some, if not all, of the counties, and the dividing lines between others were defined and established. The Easterly bounds of the County of Essex were declared to be "the middle or midway of the sound of the same name, adjoining same as far as the limits of the said County extend." The bounds of Middlesex County were thus described: "The Easterly bounds of the County of Middlesex are declared to be the middle or midway of the waters of the Sound adjoining the same to the middle of the channel at the junction of the waters of the sound with the waters of the Rariton River to the Eastward of the Flat or Shoal which extends from Amboy or Cole's Point and thence to the mouth of Whale Creek the beginning of the bounds of the counties of

Middlesex and Monmouth." The Sound mentioned in these two descriptions is what is now known as Staten Island Sound upon which Elizabeth Town, then in Essex County, and Woodbridge and Amboy, in Middlesex, impinged.

Monmouth County's northerly bounds were thus set forth in the act: "The middle or midway of the waters of the Rariton Bay from the line of Middlesex to the main channel which passes by Sandy Hook and along the said Channel to the Sea."

Salem County's bounds were stated thus by the act: "The Northern boundary of the County of Salem shall be taken and deemed to be as follows: to extend from the middle of the Channel at the mouth of Oldman's Creek to the main Ship Channel of the River Delaware striking the same at a right angle and the Southern bounds extending from said Ship Canal along the Cumberland line to the middle of the channel at the mouth of Stow Creek."

Cumberland County's bounds are also settled by that act. "The Northerly bounds of the County of Cumberland shall be taken and deemed to extend from the middle of the Channel at the Mouth of Stow Creek to the main Ship Channel in the River Delaware striking the same at a right angle and the Southern bounds shall be taken and deemed to extend from opposite the middle of the Mouth of West's Creek to the main Ship Channel in Delaware Bay making a right angle therewith."

The division line between the counties of Cumberland and Cape May was thus defined: "The line of partition between the counties of Cumberland and Cape May shall be taken and deemed to be as follows, to-wit, to begin at the place where the waters of Mill or Hickman's Creek fall into the Channel of Tuckahoe River at the Boundary Line of Gloucester County and running thence directly into the Mouth of said Creek continuing the same course by a line of marked trees (which by the present position of the compass is South fifty-seven degrees and about thirty minutes West) until it strikes Hughes' on the lower mill pond on West or Jecak's Creek; thence down the middle of the ancient water courses thereof until it falls into Delaware Bay and thence continues a due South West course until it strikes the line of said Counties at the ship Channel of the said Bay."

On the 20th day of November, 1824, Warren County was set off from Sussex with this description: "All the lower part of the County of Sussex South Westerly of a line beginning on the River Delaware, at

the Mouth of Flat Brook, in the Township of Walpack, and running from thence a straight course to the North East corner of the Hardwick Church situated on the south side of the main road leading from Johnsonsburg to Newton and from thence in the same course to the middle of the Muskonetcong Creek and the same is hereby erected into a separate County to be called the County of Warren and a line running from thence down the middle of said Muskonetcong Creek to where it empties into the Delaware shall hereafter be the division line between the counties of Morris and Hunterdon and the said County of Warren."

On the 7th day of February, 1837, two new counties were created by the same act—Passaic and Atlantic. Passaic was thus described: "All those parts of the Counties of Essex and Bergen contained within the following boundaries and lines: Beginning at the Mouth of Yantakaw or Third River at its entrance into the Passaic River, being the present boundary of the Township of Acquackanonk, running thence North Westerly along the course of the line of said Township to the corner of said line at or near the Newark and Pompton Turnpike; thence in a straight line to the bend of the Road below the house now occupied by John Freeman, in the township of Caldwell, being about one and a half miles in length; thence to the middle of Passaic River; thence along the middle of said River to the middle of the Mouth of the Pompton River by the two Bridges; thence up said River along the line between Bergen and Morris Counties to Sussex County; thence along the line between Sussex and Bergen Counties to the State of New York; thence Easterly along the line between the two States to the division line between the Townships of Pompton and Franklin; thence along the said line dividing said Townships and the Townships of Franklin and Saddle River to where it intersects the road commonly (called) Goetchius lane; thence down the centre of said road or lane to the Passaic River; thence down the middle of Passaic River to the place of Beginning."

The County of Atlantic created by the act is thus described: "All the East part of the County of Gloucester contained in the Townships of Galloway, Hamilton, Weymouth and Egg Harbour."

On the 22d of February, 1843, a new County called Mercer was created with these boundary lines: "All those parts of the Counties of Hunterdon, Burlington and Middlesex contained within the following boundaries, viz. Beginning on the River Delaware at the Mouth of Crosswick's Creek and at the extreme western point of the division line between the Townships of Nottingham and Chesterfield in the County

of Burlington and running thence up the said creek along the middle of the same and as the same runs in several courses to the boundary line of Monmouth County; thence northwesterly along the said line until it strikes the Boundary line of the Township of East Windsor in the County of Middlesex, which divides said Township from the County of Monmouth; thence along said line between East Windsor Township and Monmouth County till it strikes Rocky Brook; thence down the middle of said Brook to a new Road leading to Milford; thence along said Road Eastwardly to the Westerly line of Louis Riggs' land; thence along said line Northwardly to the Middle of Millstone River; thence down the said River along the middle thereof the several courses of the same to the line dividing the Counties of Somerset and Middlesex; thence Southwestwardly along said dividing line to the line of the County of Hunterdon; thence along the line dividing the Counties of Somerset and Hunterdon to a point therein where the same crosses the road called the Pennington road leading from the village of Rocky Hill to the village of Pennington; thence continuing along the middle of said Road the various courses thereof to the Delaware River at Titusville; thence down said River the several courses and including the Islands belonging to this State to the place of Beginning."

On the 27th of February, 1838, the Township of Princeton, or such of it as was, prior to that time, included within the County of Somerset, was added to Mercer.

On the 22d day of February, 1840, another new County called Hudson, was created by an act of the Legislature, with these bounds: "Beginning at the North Easterly corner of the present Township of Bergen on the boundary line between this State and the State of New York; thence running Westwardly on the line which divides the said township of Bergen from the Township of Hackensack to the Hackensack River; thence down the middle of said Hackensack River to the middle of the Turnpike road of the New Barbadoes Toll Bridge Company; thence westwardly along the middle of the said Turnpike road in the various courses thereof to the middle of the abutment of the Bridge across the Passaic opposite to the village of Acquackanunk; thence along the middle of said Bridge to the point where it meets the line between the present County of Passaic and Bergen; thence down the said Passaic River and Newark Bay in the several courses thereof on the boundary lines between the said County of Bergen, as the same stood before the passing of this act, and the counties of Passaic and Essex to Kill-von

Kull; then Eastwardly on the boundary line between this State and the State of New York to the Hudson River; thence Northwardly continuing on the said boundary line between this State and the State of New York up the said Hudson River to the place of Beginning."

On the 13th day of March, 1844, seven townships were taken from Gloucester and made a County under the name of Camden, with this description: "That the seven townships of Camden, Waterford, Newton, Union, Delaware, Gloucester and Washington, now composing a part of the County of Gloucester, be and the said townships are hereby erected into a separate County named and hereafter to be called the County of Camden."

On the 15th day of February, 1850, the County of Ocean was created with the boundaries mentioned in the following description: "All that part of the County of Monmouth contained within the following boundaries, viz: beginning at Manasquan Inlet and mouth of Manasquan River; thence up the middle of said River to the first bridge over the same; thence Westerly to a corner on the south side of said River near the old bridge; thence South Westerly to the Road leading to Jackson's Mills; thence along said Road till it strikes the line between Howell and Jackson townships; thence along said line to the North East corner of Jackson township; thence along the line between Jackson and Freehold townships till it strikes the road leading from Freehold to Mount Holly; thence up the middle of said road to the Plumsted line; thence down said line to Moses Ivins's floodgate bridge over the Lahaway Creek being the beginning corner of Plumsted township; thence following the Plumsted line the several courses thereof to the line between Burlington and Monmouth Counties; thence along said line to the sea shore; thence along the sea to the place of Beginning be and the same is hereby erected into a separate County to be the County of Ocean and the said lines shall hereafter be the dividing lines between the Counties of Monmouth, Burlington and Ocean."

On the 19th day of March, 1857, Union County was created, by an act of the Legislature passed that day, with this description: "Beginning on the Sound leading from Elizabeth Town point to Amboy at the easternmost point in the division line between the Counties of Essex and Middlesex; thence North Easterly along the Eastern line of Essex County to the South East point in the division line of the Township of Clinton; thence westerly along the division line between the Township of Clinton and City of Elizabeth to the division line between

the townships of Clinton and Union; thence along the Northwesterly and Westerly line of division between the township of Union and Clinton to the Northerly division line of the township of Springfield; thence down the East branch of the Rahway River to the junction of the East and West branch of said River to the Mouth of William and Abner Stites' mill race; thence along said Mill Race to William and Abner Stites' Mill pond; thence along the middle of said pond or ponds to the mouth of the brook that runs South and near to Wellington Campbell's paper mill; thence up said brook to the new Road near said Wellington Campell's mill dam; thence up said new Road to the Morris Turnpike; thence up said Turnpike to the Passaic River at a point in the West division line of the Township of Springfield; thence along said line to the northerly division of the township of New Providence; thence along the North and West division line of the Township of New Providence to the division line of the Township of Plainfield; thence along the Westerly aud Easterly division line of the Township of Plainfield to the division line between the Counties of Essex and Middlesex; thence Easterly along the division line between said Counties to the place of Beginning on the Sound including and intending to include within the said metes and bounds all that part of the County of Essex now contained within the city of Elizabeth and the townships of Rahway, Westfield, Plainfield, New Providence and that portion of the township of Springfield included within the boundary lines herein before described be and the same are hereby erected into a separate County to be called the County of Union and said lines shall hereafter be the division lines between the Counties of Essex, Somerset, Morris, Middlesex and the said County of Union respectively."

There are now twenty-one counties in the State, eight having been created since the establishment of the constitution of 1776. There have been changes in all these municipalities, since their first organization. New townships and cities have been formed, county and township lines have been changed, but the counties themselves are substantially the same that they were forty years ago, when the last one was created.

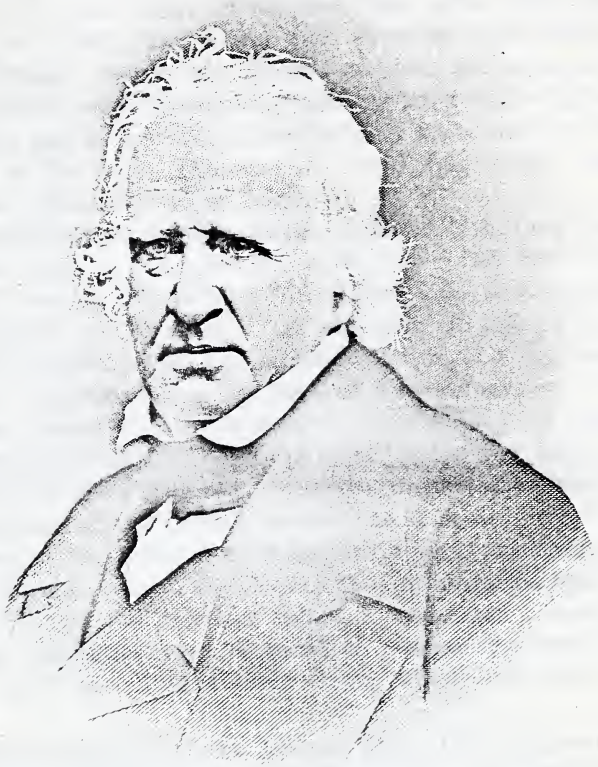
CHAPTER X.

CONTENTS.

Third Stage; Statehood; Different Parties; Titles of Acts, by Constitution, Required in the Name of the Colony, not of the State; This Title Never Used; Qualifications of Members of the Legislature; Provincial Congress Approves the Declaration of Independence; Title of Provincial Congress Changed; Perpetuates Itself; A Committee of Safety; Recognized by the Legislature and Called Council of Safety; Powers of Council of Safety; First Meeting of Council of Safety; First Assembly of New Jersey Under Constitution; Oaths of Abjuration and Allegiance; Three Legislative Bodies; Provision Made to Prevent Errors in the Practice of the Courts; Deportment of Inhabitants in Their Changed Condition; First Legislation; Confiscation of Estates of Tories; Personal and Real Estate Sold; Change in the Laws of Descent; Court of Admiralty; Gift to Steuben; His Letter; William Livingston Elected Governor; Sketch of His Life.

On the 2d day of July, 1776, New Jersey entered upon the third stage of its existence—that of independent statehood. It then cut loose from all its former governmental associations to work out its own destiny, unassisted and alone, though at first with a half-hearted determination; a door was left open by its Provincial Congress through which it might retreat if failure should wreck its high hopes. Through that door the President of that very Congress sought refuge, not many months after he had signed that Constitution. Many in the new fledged State were undetermined what course to pursue; they could not yet shake off the old associations, renounce king and parliament, break loose from ties of kindred and the mother country; and there were some who still honored King George as their Sovereign and would not recognize the new order of affairs—did not believe that the colonies, in their weakness, could cope with the armies of Great Britain. But the very great majority of the people of New Jersey sympathized with the Congresses, Provincial and Continental, and were prepared to do all and dare all so that independence might be achieved.

New Jersey became the battle ground of the Revolution; her fair lands were devastated, her villages destroyed, her churches burnt, her people plundered, her women and maidens insulted and outraged.



Engd by E.G. Williams & Bro. N.Y.

James Parton

Every indignity that rancor and hate could devise were heaped upon her citizens. Still, suffering, bleeding, hungering, beaten, but not dismayed; driven from one point to another, but never discouraged; never faltering, but holding fast to her high hopes of liberty and freedom; her indomitable people, her citizen soldiers, her minute men, with the grim tenacity with which an unfaltering trust in the righteousness of their cause and in the God of Battles could alone impart, fought out the contest to the last. The story of these long seven years of strife need not be repeated in these pages.

The new Constitution, in its 15th clause, declared "that the laws of this Colony shall begin in the following style, viz. "*Be it enacted by the Council and General Assembly of this Colony, and it is hereby enacted by the authority of the same.*" On the 18th of July, 1776, this same Provincial Congress which proclaimed the Constitution, assumed the name of the "Convention of the *State* of New Jersey."

By the second clause of the Constitution, it was directed that the Legislative Council and Assembly should meet for the first time on the second Tuesday of August then next. By the third section the qualifications of members of the Council and of the Assembly were designated. Members of the Council must be inhabitants, freeholders and residents for one whole year in the County they represented and worth at least £1000 in real and personal estate, in the same County; the members of the Assembly were required to possess the same qualifications except as to the value of their estate, which must be at least £500.

The Provincial Congress, on the 17th of July, 1776, approved the action of the Continental Congress, in its Declaration of Independence, in these memorable words: "Whereas the Honorable Continental Congress have declared the United Colonies free and independent States, we, the deputies of New Jersey, in Provincial Congress assembled, do resolve and declare that we will support the freedom and independence of the said States with our lives and fortunes and with the whole force of New Jersey." On the next day after the passage of this resolution, it was declared "that this House from henceforth, instead of the style and title of the Provincial Congress of New Jersey do adopt and assume the style and title of the *Convention of the State of New Jersey.*" This was before the meeting of the Legislature, and, of course, that body, after this example set by the Provincial Con-

gress, could not and never did, use the word "Colony" in the passing of any laws or in any other governmental document.

The Provincial Convention, as the Congress was now called, took measures to perpetuate itself and its authority, long enough at least, to meet the exigencies of the situation; it therefore directed that yearly, during the continuance of its troubles with Great Britain, the citizens should meet in their respective counties, on the 21st of September, and elect five deputies to the Convention.

The Committee of Safety, appointed by the Provincial Convention, was authorized to act as an executive body, while the Convention was not in session, and met from time to time, until March 15, 1777, when it was recognized by the Legislature, but reorganized and called the Council of Safety by an act, entitled, "An act for investing the Governor and a Council, consisting of twelve, with certain powers therein mentioned for a limited time." After this it consisted of twelve persons besides the Governor, who acted as its President. It was invested with most extraordinary powers, which could only have been granted under very peculiar circumstances and to very wise and judicious men. Among them were these: To act as a Board of Justices in criminal matters; to fill vacant military offices; to apprehend disaffected persons and commit them to jail (without Bail or mainprize) and remove them from jail to jail; to call out so many of the militia as might be necessary for carrying their orders into execution, or for a guard to those who were compelled to serve; to send the wives and children of fugitive Tories into the enemy's lines; to cause offenders to be tried in any County in the State; to cause persons refusing to take the oaths of government, to be committed to jail, or to send them (if willing) within the enemy's lines; to make any house or room a legal jail; to commit disaffected persons to jail until the release of citizens kidnapped by the enemy; to negotiate exchange of these disaffected persons for the subjects of the State detained by the enemy; to erect beacons; to disarm the disaffected; to relieve wounded soldiers and to provide food for prisoners.

On the 17th of March, 1777, two days after the passage of the act reorganizing that body, the Council met at Haddonfield and proceeded at once to business. There were nine members present, besides the Governor. The first matter brought to their attention was the arrest of six prisoners who were examined and forwarded to the Council of Safety of Pennsylvania, where it was ascertained they belonged

The act of the Legislature recognizing this Council limited the time

of its operation to six months, but the statute was renewed several times with amendments; the last of which authorized the President of the Council to grant exemptions from military duty and extended the term of the Council to the end of the next session of the Legislature.

The first Assembly of New Jersey, under the Constitution, met on the 27th of August, 1776, at Princeton, and organized by the appointment of John Stephens, Vice President of the Council, and John Hart, as Speaker of the Asssembly. The first act it passed, had a title, part of which is quoted for the purpose of exhibiting the alert action of the first law making power in the State of New Jersey, to recognize the fact that it was no longer a colony, but an independent government and this too, notwithstanding the fact that the Constitution, adopted less than a year before, provided that all laws should be passed in the name of the colony of New Jersey. "An ordinance for repealing an ordinance of a Convention of the *State* of New Jersey." The word *colony* was never used in the title of a single act after the Constitution became the organic law of the State; the word *State* was always substituted for it. On the 19th of September, it passed an act requiring all officers, civil and military, to take two oaths; one called the oath of abjuration and the other the oath of allegiance, which was of this form: "I, A. B., do sincerely profess and swear (or, if one of the people called Quakers, affirm) that I do not hold myself bound to bear allegiance to the King of Great Britain, so help me God." That was called the oath of abjuration. The oath of allegiance was this: "I, A. B., do sincerely profess and swear (or, if one of the people called Quakers, affirm) that I do and will bear true Faith and Allegiance to the Government established in this State under the authority of the people, So help me God."

The Council of Safety was an exceedingly busy body of men and necessarily so, if they gave attention to the many and varied matters included within the scope of their duty. They were in session almost daily, meeting at different points in the State, most often at Haddonfield; sometimes at Morristown and at other places in the State. The oaths of abjuration and allegiance were tendered to all suspected persons brought before the Council; if any refused to take them, they were sent to prison or recognized with sureties, to appear for trial. The testimony if it were deemed worthy of retention, was reduced to writing and filed. If this testimony were still in existence and could be unearthed, much valuable information might be obtained.

The strange spectacle was presented of three bodies, representatives

of the people,—the Legislature, the Provincial Convention and the Council of Safety, each vested in many respects, with co-ordinate powers and each moving in its special orbit, without any attrition or interference with or from the others.

The Convention, however, seems to have relinquished all control over public affairs; the Legislature met as usual and gave attention to the performance of its duties. The old adage "*Inter arma, leges silent*" cannot be applied to that body. During almost the whole of the seven years that the war lasted, New Jersey was ravaged by the English armies; courts were obliged to intermit their sessions; many confusions and errors crept into the practice; the interests of suitors were necessarily endangered and suits would have lapsed, had not the Legislature interfered and by its acts, remedied the evils. The Assembly, itself, was obliged to move its sessions from place to place and hold its meetings at different towns to prevent the destruction of its records and the capture of its members. Almost the first care of the Legislature, at its initial meeting, in 1776, was to prevent any injustice arising from the unsettled state of the courts, and so, by an act passed October 2d, 1776, it was enacted that the "several courts of Law and Equity existing in the State, prior to the Declaration of Independence should be confirmed and established and continued to be held with the like powers under the present government and at the same times and places as they were held before."

Of course, Legislation, while the war was in progress, was directed, a large part of it, at least, to military operations and such matters as were connected therewith, but the civil affairs of the State were not neglected, nor were local interests overlooked.

It is quite astonishing to notice how quietly and readily the people seem to have adjusted themselves, in their varied circumstances, to the changed conditions arising from the new order of affairs. They had broken loose from their king and had abjured his government; had embarked on a sea of new and untried relations; yet, there was no attrition, no tumult, no disorder. It was found necessary to change a few words in the framing of statutes, to vary the usual formula in the courts and in their proceedings, that was all. The people went about their ordinary business, contented and happy. They were intent on securing one condition of life, and that was, freedom from oppression, the right to govern themselves and to representation in the law-making Councils; that secured, they cheerfully endured the burdens of life, with its added sacrifice and suffering.

The Legislature passed many private and local acts during the existence of the war; such as giving power to erect bridges, to lay out roads, to establish ferries, to change the places and times of holding County Courts; it also granted divorces, gave relief to individuals under peculiar circumstances, and passed some public acts which affected all the people of the State. It was its policy to make as few changes as possible—only such as the change of government necessarily required. Whenever that demanded new statutes, they were passed. It early gave its attention to the subject of punishing those who fled from the State and gave support to the English government, by confiscating their estates. On the 5th of June, 1777, it passed an act with this title: "An act of free and general pardon, and for other purposes therein mentioned." By this statute all offenders who had been guilty of treasonable practices, were invited to return to their allegiance to the United States, and were allowed until August 1st, then next, to appear before a Justice or Judge of their own selection and take the oaths of abjuration and allegiance. When this was done, a certificate was given the repentant citizen which was recorded by the Clerk of the County and thereupon a free and unconditional pardon of all treasonable actions, with restoration of the estate of the criminal, was granted. Imme diately upon the publication of the act, the Commissioners from each County, appointed for the purpose of enforcing it, were required to take possession of all the personal estate of such as had incurred the penalties of treason, to inventory the same, and if any of it were perishable, or in danger of falling into the hands of the enemy, to sell that and retain the proceeds in their hands, with the other part of the personalty, if any, until the first of August, the time set by the law, by which date the oaths were required to be taken. If the offender returned by that time, took the oaths and was pardoned, then, the Commissioners were directed to return the money and goods to the owner, retaining his fees. On the 18th day of April, 1778, this act was amplified and more power was given the Commissioners. They had full authority to sell personal property and lease the realty; full provision for the payment of all debts due by the defendant was made, and the creditors were satisfied, so far as possible from the proceeds of the sale. No power of sale of the real estate was granted by this act, but the defect was remedied by one passed the 11th of December, 1778, which provided for the sale of land and for the giving of a deed to the purchaser. The title to some of the land in New Jersey is based upon sales made by these Commissioners.

The principle of extradition of criminals from one State to another was acknowledged in a statute passed October 7, 1778. It applied to "Treason, Felony, or other high misdemeanors."

On the 20th of November, 1778, the delegates in Congress were directed to subscribe and ratify the articles of Confederation between the States agreed to in General Congress, November 15, 1778. This act declared that "the terms of the said articles, . . . are considered in divers respects unequal and disadvantageous to this State and the objections to several of the said articles lately stated and sent to the General Congress aforesaid, on the part of this State, are still viewed as just and reasonable and sundry of them are of the most essential moment to the welfare and happiness of the good people thereof." These objections were entered at large in the minutes of the Assembly, June 15, 1778.

On the 24th of May, 1780, a change was made in the law of the descent of real estate. The Legislature, in the preamble to the act making the change, declared that the law of descent as "it now stands, works injustice, by vesting the whole real estate of an ancestor in the Heir-at-law, if a male, to the exclusion of the issue or Descendants both male and female." Therefore, it was enacted that if any ancestor owning real estate should die intestate, "leaving two or more sons, such real estate shall descend to and be equally inherited by all the sons . . . as tenants in common; and, if such ancestor shall have issue both male and female, then, such real estate shall descend to and be inherited by such issue, male and female, in such proportion that each son shall inherit two shares thereof, each of which shares shall be equal to the share of the daughter." On the 19th of December, 1781, a Court of Admiralty was erected; its jurisdiction defined; its mode of procedure established; the number, duties and appointment of its officers directed, and the fees and costs of those offices settled. On the 23d of December, 1783, the Legislature tendered a gift, by act, to Major General Baron Steuben, of an estate for life in that part of the forfeited estate of John Zabriskie, situate at New Bridge, in the township of New Barbadoes, in the County of Bergen. The gift was coupled with the condition that the Baron should have, hold, occupy and enjoy the said estate in person and not by tenants. These are some of the statutes of a public nature passed by the Legislature of New Jersey from 1776 to 1783.

In a letter from Steuben dated November 13, 1785, addressed to

Governor Livingston, he states: That he had "become the purchaser of that part of the estate of John Zabrieskie lying at the New Bridge near Hackensack," and the time of payment having arrived, the money was ready for the agent whenever he should call for it. He then stated that before he took the deed for the place he desired the Governor to represent to the Legislature that the only lot of woodland belonging to the place was withheld by the agent at the sale on a doubt of its being "*included in the law*," because it was situated three quarters of a mile from the house, and therefore the agent supposed it could not be lying at the New Bridge. The Baron claimed that it was annexed to the estate and indeed is the only part of it on which there is a stick of wood; and that was bequeathed to John Zabriskie by his father along with the house and mill. Then, wrote Steuben, if the Legislature meant *to include it in the law*, he must request that directions be given that the agent include it in the deed.

When it first assembled, on the 27th of August, 1776, the Legislature provided for the election of a Governor. There were two candidates presented for their suffrages—William Livingston and Richard Stockton; both lawyers, both in the prime of life and each competent to perform the duties of the office. Livingston was then at the head of the military, although not educated as a soldier. Stockton had been a delegate in Congress from New Jersey and had signed the Declaration of Independence. Both had rendered much service to the State and it was difficult for the members to select between the two. The vote was taken by secret ballot, the suffrages were equally divided and there was no election, but it was finally decided in favor of Livingston. The newly elected Governor came from excellent ancestry. His grand father, Robert Livingston, was a distinguished Scotch clergyman, who, when Charles II was restored to the English throne, fled to this country,—first going to Holland. After his arrival here, he married into the Van Rensselaer family, bought land from the Indians and became possessed of a very large estate, known as the Livingston manor, the second largest manor in New York, a colony famous for extensive collections of land held by individuals. Philip, the father of the Governor, was the second son of Robert, but the eldest son dying without children, Philip succeeded to the estate. Following the example of his father, he married into a wealthy Dutch family, and William was the fifth child of this marriage. After matriculating at Yale, in 1741, at the head of his class, he was educated for the bar in the office of James

Alexander, a leading lawyer in the city of New York and one of the Counsel for the Complainants in the celebrated Elizabeth Town Bill in Chancery. After receiving his license, he practiced as an attorney in the City of New York. His great industry, ability, and knowledge soon secured him a large clientage and he took his place among the prominent men in his profession. He was opposed to his former preceptor, Mr. Alexander, in the Elizabeth Town cause, appearing for the defendants in that celebrated suit. In the quarrels between England and the Colonists, he very warmly espoused the cause of the people, using both voice and pen to aid them in their struggle. In 1772, he removed to Elizabeth Town, where he had purchased an estate of about one hundred and twenty acres, upon which he built a handsome and commodious residence. He delighted in agriculture and its kindred pursuits, and stocked his premises with valuable fruit trees of different kinds which he had imported from Europe. He possessed, as he supposed, an ample fortune, and intended to retire from active pursuits, but the failure of some of his debtors, and losses by the depreciation in the currency of the time, obliged him to return to his profession. He was employed as Counsel in some very important cases and would undoubtedly have regained much of his old clientage if he had felt disposed to seek it. The troubles between the colonies and the mother country called upon every patriot to aid in the contest; Livingston did not hesitate for a single moment, but came instantly to the front. The provincial Congress appointed him a delegate from New Jersey to the Continental Congress. His power was soon felt and he was a member of several committees, among them, that chosen to prepare an address to the people of England. He was again and again elected to Congress and took a large part in the proceedings of that body. In June, 1776, he left Congress to assume the duties of Brigadier General to which position he had been adjudged some time previously. Mr. Livingston was cautious, prudent and conservative in his feelings and judgment, and, while an undoubted patriot, giving his whole soul to the cause of the people, yet, he doubted the expediency of making a final breach with king and parliament. He would not have relaxed any effort; he would not have accepted anything less than complete emancipation from wrong and oppression, but, he thought the colonies were not strong enough to resist the armies and fleets of England, and that it would be better to secure an alliance with France before risking all on the wager of battle. But, when the die was cast and the sword was finally drawn,



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he recognized no other course than that which led through all the horrors of a bloody war. He was requested to take charge of the New Jersey troops, but his tastes were not in that direction and fortunately for the State, another field was opened before him which he could occupy with credit to himself and benefit to his country. The Legislature, which met at Princeton, elected him Governor, and after assuming that office, his whole time was devoted to the performance of his duties as the Chief Magistrate of the Commonwealth. Those duties included not only what was required of him as the executive of the State, but, also, those of Chancellor, Ordinary, Surrogate General and President of the Council. It is altogether probable that very little was done in his courts during the war, but his time was fully occupied with the labors connected with the soldiers from New Jersey and with the many and varied matters constantly coming before the Council of Safety. He rarely failed in his attendance at its meetings and took an active and laborious part in all its proceedings. He was eminently successful as a Governor, securing the esteem and confidence of his constituents and was re-elected to the office thirteen times, serving the State, with general satisfaction, to the last, for nearly fourteen years. In 1785, Congress appointed him Minister to Holland; but, after some hesitation, he declined to accept. In 1787, he was appointed delegate to the Convention which formed the Federal Constitution, and took a very prominent part in the proceedings of that body.

During the war he was in great danger; his energy in organizing the militia of the State, his vigilance in thwarting the designs of the enemy and his entire devotion to the cause of the people rendered him obnoxious to the English and he barely escaped capture on several occasions. His residence was despoiled, his grounds wantonly laid waste and he was obliged to remove his family to Morris County to save them from capture. He was a man of literary tastes, and fond of writing articles for the press of his time, an occupation for which he found leisure even in his busiest moments. His Alma Mater conferred upon him the degree of LL. D. a short time before his death, which occurred in 1790. Of his thirteen children, one, Brockholst Livingston, achieved honor as a jurist, being for several years one of the Judges of the highest tribunal in New York, and, in 1797, he was transferred to the bench of the Supreme Court of the United States, retaining that position until his death, in 1823.

CHAPTER XI.

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The change in the government of New Jersey by which it became a sovereign State instead of a dependent colony, was, in many respects, radical. Before the adoption of the Constitution of 1776, the king was the source of all authority; he appointed the governor and his Council, and those officers were responsible to him; he had absolute control over all laws passed by the Legislature; if he vetoed them, they were inoperative and could not be repassed. The Assembly was the popular branch of the law making power, and, it is true, was elected by the people, but the Royal Governor might prorogue or dissolve it at any time. Its action was controlled by the Governor and by the Council who held position at the will of the king.

The history of the colonists prior to 1776, made it patent that notwithstanding the "Grants and Concessions" and the "Concessions and Agreements," the king and ministry would not hesitate to encroach upon the rights of the people guarantied to them by those organic laws. There was no security that any of their liberties would

be preserved. The mutual dependence of king upon people and people upon king, was ignored; the protection which the sovereign was bound to afford to the subject was unjustly withdrawn and in its stead injustice and oppression prevailed. The king was deaf to remonstrance, impervious to the cries of his distressed people for succor and all hope for any righteous treatment from the throne was destroyed.

By the new Constitution no novel principle of government was introduced, but the fundamental idea of a government from the people and for the people was more strongly formulated and more firmly established. This principle of self-government was introduced with a pronounced, unmistakable force into the new order of affairs and became so incorporated into the very warp and woof of legislative action that it was recognized as an imperishable right of the people. It needed no direct asseveration in words to define or establish it; it was rooted and grounded in the very life blood of civil existence. It did not require any bill of rights; it was the birthright of the people—born with them—and could not be taken from them.

Both bodies of the Legislature were elected by the people, one to be a check on the other; each within its own proper sphere to be independent of the other, and yet, each responsible to the same master, who was the creator of both. Each moved within its own orbit, and yet, they were so connected, that each owed certain duties and was under certain liabilities to the other, and neither could finally act without the co-operation of the other. The power of taxation was jealously guarded; all money bills must emanate from the Assembly and the Council could not prepare nor even alter any such bill. No earthly power could prorogue, much less dissolve any legislature; each body was chosen for the same definite term and both must hold their sessions at the same time.

The governor was no royal favorite, selected because of servility to his master, dependent upon the favor of the king for continuance in office and liable to be sharply reprimanded by arrogant ministers or privileged lordlings. He was the servant of the people, who, mindful of their own rights and quick to recognize and appreciate the privileges of others, demanded a strict performance of duty in those who owed allegiance and were responsible solely to them. In his election both bodies of the legislature united, representing their constituents and protecting their interests.

Very little change in the selection of the Judiciary was created by

the Constitution of 1776. By the "Grants and Concessions," the power of instituting courts and electing judges was vested in the Assembly; by the new organic law, the right of electing judges was granted to the Council and General Assembly, in joint meeting. The Constitution seemed to take it for granted that the courts in operation at the time of its formation should still continue without further enactment. It certainly was silent on that subject, but it did indirectly establish those tribunals, as it provided that the judges of certain named courts should continue in office for stated terms and that they should be elected by the Legislature.

These are some of the main features in the change of government in New Jersey, created by the new Constitution.

These changes met with the hearty approval of the great majority of the people, who went about their daily avocations as usual, submitting cheerfully to the new order of affairs and manifesting that approval by a more alert discharge of their duties as citizens under the new régime. There were a few who disapproved—who refused to submit—who clung with unswerving loyalty to king and ministry and risked life and fortune in their efforts to preserve the royal authority. Some of the best men in the State were among these adherents to the English crown.

But the machinery of the new government worked admirably and with little attrition. It is true that the new Constitution of the Commonwealth was crude and lacking in many essential qualities, but the people looked beyond the surface to the spirit and did not regard the letter so much as the real meaning. It is wonderful that so great changes worked so little disorder; there was, in fact, none except such as was necessarily caused by the after events of the war and the antagonism created by the conflicting action of those who supported the new government and those who ranged themselves in opposition to it by adhering to the royal cause.

The different branches of the administration of the State, the Executive, Legislative and Judiciary, began calmly and quietly to perform their several duties.

The second meeting of the Legislature, under the new Constitution, convened on the 13th of November, 1776, at Burlington, and continued until the 2d day of December, following. By this time the British army was in pursuit of Washington and the Continental forces, in full retreat after the disastrous campaign of Long Island. Haddonfield was the next place of meeting, when the Legislature was called to-

gether by special summons from the Speaker. From that time until the peace of 1782, the Assembly had no abiding place, meeting at Princeton, Trenton, Haddonfield, and, occasionally, at Burlington.

At the time of the breaking out of the war, the colonies were bound by no other ties than those of self-interest, and the patriots who had the direction of public affairs fully appreciated the perilous condition. There was no head except the Continental Congress, and during its vacation, a Committee; both of which might be dissolved at a moment's warning by the defection of one or more of the States. Those municipalities were all free, independent sovereignties, each equal to the other, and rivalries and jealousies existed among them, even at that early period in their history. The smaller States feared that the preponderating influence of the larger might destroy, or, at least, weaken their power and authority; they looked askance at every movement, and so, unanimity did not prevail in the general councils of the nation. It was imperative that the States should be bound together in an organization which should recognize and sustain the rights of all. Although impressed with this necessity, it seemed to be a problem impossible of solution, but it must be accomplished, and all minds were addressed to the production of some plan to meet the necessities of the occasion.

The Continental Congress met in 1774; in 1775 war was virtually begun, and for two years Congress directed the operations in the field without any defined plan of government; it had no guide during that terrible juncture except its own patriotism and wisdom. There was no cohesive power cementing the union of the several States but the common danger and the universal moral support of the people.

Three separate plans for confederation were proposed and discussed from time to time, before any conclusion was reached. The three plans were these: One introduced by Benjamin Franklin, in 1775, an outgrowth and improvement of one proposed by him twenty years and more before, at a meeting in Albany, when an attempt was made to establish a confederation between the colonies. Franklin claimed that he had matured this plan on his road to the meeting at Albany, but it is almost precisely like the one already referred to in these pages, emanating many years before from Daniel Coxe, an Associate Justice of the Supreme Court of New Jersey. Another plan was presented by Joseph Galloway, which, if adopted, would undoubtedly have prevented any separation from the mother country and was, in fact, avowedly intended to prevent that result. The third plan was the one which was

finally adopted. The third, known in history as the Articles of Confederation, although prepared in 1776, was not adopted until 1778. But these articles proved forceless and no more binding than a rope of sand. Congress could not enforce a single act it might pass and it was soon learned that a more perfect union was necessary.

The Articles of Confederation passed in 1778 did not meet with instant recognition from all the States; in many cases it was assented to with protest. On the 20th of November, 1778, as already stated, the Legislature of New Jersey directed that they should be subscribed and ratified by its delegates in Congress. Those delegates were John Witherspoon, Abraham Clark, Nathaniel Scudder and Elias Boudinot.

This was in 1778; in 1787, nine years after, the Federal Constitution superseded these Articles of Confederation and New Jersey was called upon to ratify a document which cemented the Union of the States with a deathless grasp.

There was never a period in American history so full of peril to the new born Republic as was that which immediately followed the declaration of peace between it and the Mother Country.

The crisis which occurred in the history of the United States of America, from the year 1783 until 1788, tried much more than the souls of men. There was not a single faculty of the whole being of patriots at that time that was not taxed to the utmost to sustain the Country and the people, in all their interests, during those eventful years.

During the war of the Revolution the Colonies never responded cheerfully to the demands of Congress, either in supplying men or the necessary material for war. There was sturdy patriotism, but it gave grudgingly. If Washington had been supported by Congress and the Colonies, as he ought have been, and as he could have been, he would have driven the English into the Atlantic within twelve months. The war languished, not because Washington and his officers were not true and loyal, but because Congress was crippled and dared not rise to the demands of the hour; and because the Colonial governments refused to listen to the requirements of their own safety.

The Continental Congress assembled in 1775, was composed of men who were mere representatives from insurgent States, and although it continued to exist as long as the war lasted, and provided ways and means, in a measure, for the necessities of the army, borrowed money on the credit of the national government, made treaties with foreign powers and performed other acts of sovereignty, yet, really, it usurped

the authority to perform these acts. It certainly had no power except such as it exercised by the common consent of the Colonies, and that common consent was wrung from the people by the exigencies of the hour and the dangers which were involved in those exigencies. This Congress continued in existence for fourteen years, with no change either in the authority which it assumed and which it only derived from the consent of the people, or from such rights as it might receive through the action of State Legislatures or their representatives, except in the occasional change of members, until the Articles of Confederation were formed.

There are some few particulars connected with these Articles of Confederation which should be noticed. Congress might borrow money, issue bills of credit and make bonds, but there were no means of paying the indebtedness thus created. The different States could impose such tariff duties upon importations as they chose, restricted only by such treaties as Congress had already made or might make with France or Spain. Requisitions might be made by Congress upon the different States for money sufficient to pay the debts created and the interest on those debts, but these requisitions could not be enforced. No measure could be carried through Congress without a vote of two-thirds of the States, so that, to pass any law, or even a resolution, nine States out of the thirteen must vote for it.

The subsequent history of the country showed how utterly powerless Congress was under these Articles of Confederation to discharge the most sacred and binding obligations.

When the war closed, the country was in debt over $40,000,000 to three classes of persons. First, the officers and soldiers of the Army to whom Congress was indebted for pay which had been withheld; second, to the King of France and creditors abroad, who had advanced money from time to time, during the war, for the requirements of the government; and, third, to individual citizens who had also advanced money for the use of the Army. Among this latter class were those who were the holders of Continental money.

If there ever were creditors whose claims upon a government were sacred, and which should have been met without a murmur, certainly these three classes were such creditors. Not only that, but the claims of the officers and men of the Army for remuneration for their services during the war, were of such a character as imperatively to demand, not a mere recognition at the hands of the government they had created,

but a generous and grateful response to any proper demand. These men imperilled their lives, deprived themselves of their property and left their families to suffer distress and privations, while they were fighting the battles of freedom. Many of them had been wounded; most of them would return to impoverished homes, where poverty had stared their wives and children in the face for years, with shattered health and ill able to bear any further burdens. The Army claimed that not only should payment be made for what was then due, but that they should receive further compensation, by way of pension for past services. Washington and his Generals recognized the justice of this demand and urged Congress to comply with it. That body proposed several compromises, such as half pay for life, or for a few years, full pay for a certain number of years, sometimes five and then again seven. This proposition for the payment of pensions was not received with favor by the people. On the contrary, it raised a mighty clamor all over the country and many of the State Legislatures, voicing the sentiments of their constituents, pronounced against the measure. Congress had recognized the claim before the Articles of Confederation were adopted and had agreed to make certain payments, but after the Articles were ratified, the Congress meeting under the new order of things refused to carry out the compromise, and to fulfill the plain unmistakable duty of the government towards its faithful soldiers, and there was not the requisite number of representatives who had the moral courage to face the clamor of the hour and act in accordance with their own convictions of right. Congress quibbled, claimed that it was not bound by the action of the previous Congress, prevaricated and offered other compromises, and finally one was agreed upon, miserable in its terms, contemptible in its conditions, which was not effectuated until the second term of Washington's Presidency.

The King of France, with a generosity unparalleled in the history of the world, had loaned the country, from time to time, millions of dollars and interest long due to him was unpaid and remained unpaid. A requisition was made by Congress upon the several States for money to pay the interest which had accumulated upon this public debt; it amounted to about $6,000,000. In response to this demand, about twenty per centum of it was placed in the public treasury. Some of the States paid nothing; not one responded with the full amount of its quota. Holders of Continental money were never paid in full; many lost all they had. Robert Morris, one of the grandest men of his time,



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who had for years thrown himself, heart, soul and fortune into the country's struggle, who made a magnificent financier in its service and had sacrificed the whole of a colossal fortune for the government, was suffered to languish in a debtor's prison.

Now began a series of petty strifes between the several States, as disgraceful as they were absurd. New York was dependent for wood, grain and feed upon Connecticut; for butter, eggs and other farm products upon New Jersey, and laid heavy imposts upon these productions. The Yankees refused to send their produce to New York and the farmers of New Jersey followed their example. New York had bought a tract of land upon Sandy Hook, entirely worthless except for the purpose for which it was purchased. A light house had been located there to guide vessels sailing into New York Bay. The Legislature of New Jersey imposed an enormously heavy tax on this tract of land and enforced its payment.

There was great destitution all over the country; there was no money. Continental currency had become valueless and merchants refused to accept it in payment for their commodities. Most of the States attempted to remedy this evil, but the remedy was worse than the disease. Large amounts of paper money were issued—promises to pay by the States issuing them—which never had any value. Vain attempts were made to force this currency upon the people by the absurdest legislation, which could not by any possibility be enforced. Rebellion broke out in several of the States. The idle, dissipated, shiftless and worthless gathered together, and with lawless hands endeavored to make a law unto themselves and to enforce that law upon the people. Armed bands traversed the country; bloodshed and riot, rapine and murder, held high carnival.

But the saddest, and at the same time, most atrocious event of these terrible times was the treatment received by settlers from Connecticut, in the Wyoming valley. They were peaceable, quiet, law-abiding men, who had settled there with their families upon land claimed by the State of Connecticut. Unoffending citizens were driven from their homes, their houses and barns were burned before their eyes, their wives and children were treated with cruelty and indignity—chased into the forests and left to die with hunger, or to be devoured by wolves. Young maidens, innocent children and old men were alike made victims of an unreasoning and barbarous rage. The settlers themselves though submitting to wrong without an attempt to defend

themselves, until compelled for their lives to take up arms, captured at last, through the fraud and falsehood of the leader of the marauders, a recognized officer under State authority, were manacled and consigned to prison as if they were criminals. Once—twice, was this done, until the Legislature of Pennsylvania, at first participating in the outrage, was finally compelled by public opinion to disavow its own action and an attempt was made to compensate the defrauded settlers. But, it was too late. No remuneration could possibly even mitigate the results of the unexampled atrocities. For a time it seemed as if war between the two States was inevitable. The enormities committed by these Christian Pennsylvanians were cruel, barbarous, savage—only equalled by those of North American Indians. The perpetrators were at first protected by their Legislature and were never punished for the offence.

Amid all these perplexities confronting Congress at this juncture, it was powerless and was obliged from day to day to sit by and submit, with no authority to control, no power to prevent and with no means of vindicating the outraged majesty of the law. Thoughtful men all over the country viewed this state of affairs with the deepest regret and the profoundest alarm; they shuddered as they listened, from time to time, to the recital of the terrible events transpiring around them. The enemies of American freedom abroad, openly rejoiced at the confidently expected downfall of the new Republic. Even those who were friendly, publicly expressed their fears, and many lost all hope for the continuance of a republican government in the Western Hemisphere. The utterance of one far-reaching mind, not at all unfriendly to the experiment of popular government, is so remarkable and so decided that it is quoted: "As to the future grandeur of America and its being a rising empire under one head, whether republican or monarchical, it is one of the idlest and most visionary notions that ever was conceived, even by writers of romance. The mutual antipathies and clashing interests of the Americans, their differences of government, habits and manners, indicate that they will have no centre of union and no common interest. They never can be united in one compact empire under any species of government whatever; a disunited people till the end of time, suspicious and distrustful of each other, they will be divided and subdivided into little commonwealths or principalities, according to natural boundaries, by great bays of the sea and by vast rivers, lakes and ridges of mountains." George the Third,

in his small mind, cherished the hope and expressed it in his halting manner, that in a very short time his rebellious Colonies would be on their knees begging for his royal forgiveness and protection.

The Articles of Confederation were full of errors and defects, but among them stood out in glaring certainty three which now deserve particular attention: *First*, that provision which required a vote of two-thirds of the States to carry any measure whatever. There was coupled with this provision and intimately connected with it, another,—that this vote should be taken by States and not *per capita*. Thus it will be seen that the power was placed in the hands of a few to obstruct the wheels of government. Combinations could at any time be formed by which four States could unite and prevent the passage of any important measure.

Second. The authority of the different States to impose such tariff duties as they chose upon all importations. This authority, it has been shown, extended not only to the duties upon foreign goods, but even to manufactures and products of the several States. Some of the States were more manufacturing in their character and others more agricultural. Of course, the agricultural States, not dependent upon manufactures, would seek for and favor importations from other countries, while those more dependent upon manufactures would strive to keep out foreign manufactured goods.

Third. The total inability of Congress to enforce any of its requisitions. Instances have already been given where this inability was lamentably exhibited. But beyond all these and outside of the Articles of Confederation, there was another vital defect connected with the administration of public affairs. There was no head to the government, no executive; neither was there any judicial authority in the country to construe the laws which might be passed by Congress or to determine as to their constitutionality. Congress was merely legislative in its function, with no executive or judicial authority. It had presidents, but they had no power beyond that of mere presiding officers, and they are only remembered as they have impressed themselves upon the history of the country by their ability in other directions. New Jersey furnished one of these presidents, Elias Boudinot; but when his name is mentioned, he is not remembered as a President of Congress, but as a great friend of the Indian. When Congress adjourned there was no one who could control public affairs; so, a committee was appointed, to whom was entrusted, for the time being, such authority as was neces-

sary and as lay within the power of Congress to impart to them, and this was not always done.

While all these difficulties were agitating the public mind and engaging the attention of patriotic citizens, other causes of disturbance arose. The terms of peace between the United States and England were finally settled September 3d, 1783. A preliminary peace had been signed January 20th, of the same year, which, however, was only initiatory. There ensued a cessation of hostilities, but the terms were not finally arranged without a severe struggle and after much discussion. The peace was a most advantageous one for the United States; it was, in fact, the result of the consummate tact and brilliant diplomacy of the American Commissioners. The main causes of contention between the two parties which gave rise to so much controversy, were these: Payment of debts due to English citizens by their American debtors and the status of Americans commonly called Tories. There were other matters which created dispute, but they were arranged without much difficulty. These two subjects, however, were so serious in their nature and such differing opinions were held about them by the representatives of the two States, that it seemed as if there could be no possible settlement of them. It could not be permitted that the citizens of the very country which had ravaged the land of the debtor, had de spoiled their towns and really destroyed their means of payment, should be allowed to take what little there was left. So argued the Americans, but honest John Adams could not be persuaded to join in this argument. To use his own strong words: "He could not cheat anybody." So that point was finally yielded and it was agreed that the British creditor should be protected in the collection of his debts. But when the question was raised as to what should be the position of the Tory in the new Republic, a very troublesome discussion arose. At the very moment of time when the commissioners were debating this matter, guerrilla bands of Tories were ravaging the country, murdering the citizens and plundering the towns and villages. They had instigated the murderous Indian to lift his tomahawk against defenceless women and children; they had widened the breach between the two countries and had prolonged the strife; Tory property had been already confiscated and had passed into the hands of innocent purchasers, who had paid valuable considerations on the sales, and any plan which proposed to repay the traitor for this property could not be entertained. It was simply impossible for the government to indemnify the Tory for any loss which

he might have sustained; it owed large sums to its noble ally, the King of France, and to other generous friends who were entitled to recognition and payment, at all hazards. Both parties were unyielding, but at last, a compromise was settled upon. The American Commissioners agreed that Congress should recommend the State Legislatures to put an end to all further proceedings against the Tories, and that all persons having claims upon confiscated property should be allowed one year in which to pass unmolested for the purpose of prosecuting their claims. At the same time the British Commissioners were notified that Congress had no jurisdiction over the matter and that all that it could do was simply to recommend the measure to the different States.

But when the terms of the treaty were made known to the American people, their indignation was unbounded. They could not overlook the fact that the peace, in its provisions, was most advantageous to themselves, but when called upon to pay honest debts or to afford protection to the Tories, they forgot the immense benefits they would certainly derive from the treaty. Congress was utterly powerless to enforce that part of the terms of peace which provided that American debts due to British subjects should be paid, and when it recommended to the State Legislatures a cessation of legal proceedings against the Loyalists, their recommendations were met with derision and contempt. The only answer given was more stringent proceedings and more vexatious statutes against the Tories, until, at last, those unfortunate people who remained in the country were driven by the violence of their State governments and the treatment they received at the hands of their neighbors and former friends, to leave their native country and seek other and more hospitable lands. The attempt to enforce that part of the treaty which provided for the payment of debts due to English creditors, was an ignominious failure. It was opposed all over the country and every possible obstacle was placed in the way of the collection of these debts. The Legislatures of many of the States passed acts prohibiting the bringing of suits for their recovery, and the result was that the debts were never paid.

England was more just than her adversary. The British government distributed $16,000,000 in cash among the Tories, and otherwise remunerated them for their loss arising from the non-performance of the treaty. It also made further provisions for them, by grants of lands, by half pay for life, by appointment to civil offices and in other ways. In retaliation for the action of the United States, England retained pos-

session of numerous forts on the northern and western frontier of the country and did not surrender them until the second term of Washington's Presidency.

This state of affairs in America produced distrust abroad. The States of Europe refused to contract treaties with it, or to treat for commercial relations. The Ambassadors of the government were treated with contempt. "We do not know," said the authorities of other countries, "whether we are dealing with one country or thirteen," and it required many years before confidence was fully assured.

This, then, was the condition of affairs: Jealousy between the States, divided counsels, jarring, conflicting interests, diverse policies with relation to foreign States, different rates of imposts on importations all over the country, financial ruin in commercial circles, the treasury of the government empty and no means of supplying the funds necessary for ordinary expenses; riots, rebellions, insurrections were rife in many of the States, law was defied, no head to the affairs of the nation, no judicial authority, Congress powerless, confusion triumphant, chaos imminent—the Republic drifting into anarchy with fearful impetus.

Washington, in his retirement, maintained the keenest interest in all public matters. Becoming alarmed at the condition of affairs, he wrote a letter to his countrymen and to the governors of the several States, advising his fellow citizens to strengthen Congress by giving it more power, by centralizing in it the authority which would enable it fully to administer the business of a strong Federal government. He warmly urged union and a more conciliatory action between the States.

Very soon after he retired from the army he began corresponding with leading men of the country with reference to the wretched condition of the Republic, and advised that some action should be taken by which the ruin apparently so imminent should be averted, and it was mainly through his exertions, aided by other patriots, that, at last, the subject of a convention composed of representatives from the different States was brought before the people. Such a project had been proposed, but it had not assumed a tentative form until Washington committed himself to it. In 1782, New York, through its Legislature, unanimously recommended the calling of a convention to revise and amend the Articles of Confederation, and subsequently the General Court of Massachusetts passed similar resolutions, but was induced on the application of its representatives in Congress to repeal them. In 1783 the legislature of New Jersey proposed to Congress radical

changes in the articles of Confederation. It presented its views in a most intelligent and forcible manner through a representative sent for the purpose. Its objections received respectful attention and eventually became powerful in moulding the action of the Convention. The main exception related to those articles which permitted the regulation of trade and commerce between themselves by the several States. That subject, said the legislature, should be committed to the General Congress and all moneys raised from imports should be applied to creation of a navy to protect the commerce of the whole country. Objections were also made to the use of what was called the "Crown Lands," within the several States, which it was claimed should not be used to pay the expenses of the war nor for public and general purposes. There were other objections urged against the articles of Confederation by New Jersey. In 1786, Virginia invited all the States to send delegates to a convention to meet at Annapolis, to consider the subject of a tariff. Eight of the States selected delegates, and those from Virginia, Delaware, Pennsylvauia, New Jersey and New York actually met at the time appointed. Nothing, however, was done with reference to the object of their meeting, but the delegates present recommended that a convention from all the States should meet at Philadelphia in the month of May of the next year, to consider the Articles of Confederation and to propose such changes therein as might render them "adequate to the exigencies of the Union." The proposition was submitted to the several State Legislatures and to Congress. That body at first doubted even the propriety of taking any notice of the proposal, but as seven States, those from New Jersey to South Carolina, declared in favor of the measure, it finally recommended that the States should elect delegates to the proposed convention. All except Rhode Island acceded to the proposition, electing delegates, and in the month of May, 1787, the convention met in the city of Philadelphia. The time appointed for the meeting was the 14th of the month, but it was not until the 25th, that delegates appeared from seven of the States and the convention was ready for the transaction of business. Very soon, however, eleven States were represented by fifty-five delegates in all. On July 22d, representatives appeared from New Hampshire, but Rhode Island remained unrepresented during the whole convention.

There was never assembled at any other time, or place, in the whole history of the country, a more illustrious body of men than was gathered in that convention. Many of their names are immortal; they can

never die. Listen to the roll of worthies: Franklin, eighty-one years old, whose fame had filled two continents, his mental vigor unabated; Washington, whose merits need no description; Hamilton and Madison; Dickinson, from Delaware; James Wilson, of Pennsylvania, the most learned man of his time; Robert Morris, the financier, and Gouverneur Morris, the statesman and scholar; Rutledge and the two Pinckneys, from South Carolina; Wythe, the Chancellor of Virginia, with Edmund Randolph and George Mason, of the same State; Carroll and Martin from Maryland. The New England representatives were men of the most uncommon ability. Langdon, from New Hampshire; Caleb Strong, ten times Governor of Massachusetts, a typical Puritan; and Elbridge Gerry, from Massachusetts; and with them the brilliant Rufus King; Oliver Ellsworth, of Connecticut, afterwards Chief Justice of the United States; William Samuel Johnson, soon to become President of Columbia College; and last, but not least, that grand old man, Roger Sherman. The men from New Jersey were the peers of any in that assemblage of peerless men; William Livingston, David Brearly, William Paterson and Jonathan Dayton, by some authorities stated to be the youngest man in the Convention.

Amid such a galaxy of distinguished men there were, of course, many discordant opinions, and it was very soon evident that it would require consummate tact to reconcile all the jarring and conflicting plans which would be presented to the Convention. There was, however, a conservative element among the delegates; and, while they had decided opinions and were generally disposed to abide by the force of their convictions, yet, like all broad-minded men, they could listen to and appreciate the utterances of others. There were some men of narrow intellect in the Convention who could not understand that any other plan than their own ought to be entertained, but they were few in number—perhaps not more than two or three. Hamilton was weighted with Yates and Lansing, who hampered him at every vote and threw the influence of New York against all the efforts of its ablest and wisest representative.

It was very early developed that the delegates were divided into at least three distinct parties: First, those who insisted that they were bound by the strict terms of the call which summoned the Convention —simply to revise and amend the Articles of Confederation—and that they had no power to go beyond the direct terms of that call. Second, those who were opposed to any change whatever in the organic law of



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GARRET A. HOBART.

the land as it then existed. And, third, those who were in favor of an entirely new and independent Constitution, which should supersede the Articles of Confederation. The strongest men in the Convention, such as Washington, Franklin, Hamilton and Madison, favored this last plan. The Convention sat with closed doors, and a pledge of secresy, without limit as to time, was imposed upon the delegates, but Madison kept full notes of the debates which, since his death, have been made known to the public in his published works. As he was a systematic man in all his methods, it is generally conceded that implicit confidence may be placed in his report. Occasionally, soon after his works were published, some of his statements were questioned, but all criticism is now disarmed.

The first question which met the Convention was that which related to its powers, and it seemed possible that the delegates might be embarrassed with this question at any and at every stage of its proceedings. As, however, the result of the action of the Convention must necessarily be presented to Congress and be acted upon by several States before any Constitution which might be prepared could be adopted, it was finally resolved to take up the whole subject.

For four long months Washington sat almost silent in his chair, listening to the discussions which sometimes became heated and angry. The Convention was often in danger of falling to pieces in disorder and would inevitably have done so had it not been for his guiding, restraining hand. There were fiery spirits in that Convention, who could not brook contradiction, who would not yield to any antagonism, and they too frequently became excited, lost control of themselves and threatened the dissolution of the Convention. It required all the unflagging watchfulness, the ceaseless good nature and the matchless tact of Washington to prevent this threatened catastrophe. He knew and fully understood that upon the result of the consultation of that body of fifty-five men depended the future of the country he loved so well, and he was determined not to allow the Convention to adjourn without performing the duty for which they were assembled.

Time will not permit a discussion of the various subjects submitted to the delegates and of the manner in which they disposed of them. After four months of incessant labor, the Constitution under which the Republic has made such magnificent progress, was adopted; and, on the 17th day of September, 1787, George Washington affixed his bold signature to the document which had been engrossed by Gouverneur

Morris, giving vent to his pent up feelings in these remarkable words: "Should the States reject this excellent Constitution, the probability is that opportunity will never be offered to cancel another in peace—the next will be drawn in blood."

The Constitution in most of its important features was a series of compromises, and it did not receive the entire approval of any one. Washington, himself, was not satisfied with all its provisions. The objections to it were many and came from all parts of the country. Washington, after his return to his home, soon became convinced that there was very great danger that it would not be accepted by the States. He soon learned that some of the wisest and best men even in Virginia were opposed to it; Patrick Henry was throwing all his massive strength against it. George Clinton, of New York, who was popular with the people, and Yates and Lansing, who had left the Convention in disgust, before its close, were determined that that State should reject it. Richard Henry Lee and Nathan Dane were violently opposing it in Congress, but, with the Constitution, when it was reported to that body, came a letter from Washington, and Madison went back to Congress after his labors in the Constitutional Convention were ended. A majority of the representatives finally voted in its favor and it was sent with Washington's letter to the Legislatures of the several States to be submitted to the people. There was great agitation on the subject among all classes; the blood of the citizens was at fever heat and the greatest excitement prevailed. It was the day of pamphlets and pamphleteers, and caricaturists were busy. The country was flooded with printed documents and caricatures were scattered broadcast. The best men in the land were lampooned and attempts were made to defame even the venerated name of Washington, by some dishonest penny-a-liners. But nothing daunted, Washington never relaxed a single moment and bent all the energies of his forceful nature in efforts to induce the States to accept the new Constitution. He wrote to Patrick Henry, its greatest and most formidable opponent in Virginia; to Gov. Randolph, and, at first, to a few other personal friends, advocating the acceptance of the new organic law. Soon his letters became more and more numerous and the number of his correspondents increased daily. Each letter told and each had its effect. But Henry continued his opposition and the question was long in the balance. At last, success crowned Washington's efforts, and, on the 25th day of June, 1788, that great State ratified the work of the Con-

vention. The result was due to the personal influence of Washington. If Virginia had not voted for the measure, it would have been lost.

The Constitution was finally adopted by all the States, New Jersey following, very closely, Delaware and Pennsylvania, being the third State to ratify it, and with Delaware and Georgia giving it an unanimous approval.

The struggles in New York, Virginia, and Massachusetts were the severest. New York was carried by the consummate ability, the fervid eloquence, the overwhelming arguments and the indomitable energy of Alexander Hamilton. The contest in Massachusetts fully exhibited the wonderful influence of one man in that great commonwealth. At first, Samuel Adams opposed the measure—not strongly, he was rather non-committal—but gave in his adhesion after several weeks of profound consideration. His course had been watched by his fellow members in the Convention, with the intensest interest. When he announced his intention to vote for the measure, there was assurance that Massachusetts would swing into line with the other States which had already voted affirmatively.

The great work was at last accomplished and the century of unexampled progress and prosperity which has followed the country since the adoption of the "excellent constitution" has fully proved the greatness of that man whose wisdom first contrived the plan, whose energy followed every step towards its completion, and whose watchful care and unfailing perseverance secured its adoption.

The Commissioners from New Jersey took a prominent part in the Convention, presenting the claims of the smaller States to recognition and equality, with commanding force, in addition to proposing the plan to which reference will be hereafter made.

Two plans were submitted to the Convention; one, called the Virginia plan, presented by Edmund Randolph, of that State, and supported by the larger States; the other, called the New Jersey plan, proposed by William Paterson, one of its representatives, which, with some modifications, was concurred in by the smaller States, among which, strange to say, New York was then included, as well as New Jersey, Maryland, Delaware and Rhode Island. The idea prominent in Governor Paterson's plan, who, undoubtedly, was the leader of the New Jersey delegation, was to preserve the rights of the smaller States, in a manner compatible with the sovereignty of the General Government. It did not provide for a new Constitution, but contemplated amendments to

the Articles of Confederation, in addition to those proposed by the Legislature, in 1783: To give Congress the power to raise a revenue by imposts, stamps and postage; to regulate trade and commerce between the States and with foreign nations; to provide for the adjudication of fines, forfeitures and penalties by the Common Law judiciary, where the crime was committed, subject to an appeal to the Federal Courts; to make requisitions for the payment of money for the expenses of the National government, if necessary, on the several States in proportion to their inhabitants, including three-fifths of those held in servitude, and, in cases of non-compliance, to invest Congress with the authority to compel payment; to elect a Federal Executive, consisting of several persons, whose salaries should be paid out of the public funds, who were to hold office during good behavior and have original jurisdiction of cases of impeachment and appellate jurisdiction in cases of ambassadors, captures, piracy and felonies on the high seas; to have power to impose an oath of fidelity on all Federal officers and legislators and to make treaties, which were to be the supreme law of the land; to summon the military of the States whenever necessary; to enforce the Federal statutes; to provide for admission of new States into the Union; to settle all disputes between the Federal government and the several States, as to territory; to establish uniform naturalization laws.

These were the main features of the New Jersey plan, and it will be noticed that, although it did not receive the approval of the Convention, in the form in which it was proposed, as Amendments to the Articles of Confederation, yet, that its most important provisions were incorporated into the Constitution finally adopted.

The question of representation in Congress, one of the most troublesome and, at the same time, of the utmost importance, was referred to a Committee of which Paterson was a member, and the report of this Committee was finally supported with some rather unimportant changes.

Fortunately for the young Republic, a spirit of harmony and conciliation prevailed among the members, of whom, thirty-eight out of the fifty five, including all the New Jersey delegates signed the Constitution. There were others who would have done so, but they were necessarily absent.

A very small minority of the citizens of New Jersey opposed the new Constitution; there was, in fact, no organized opposition to it within the State. The Legislature exercised the greatest prudence in the

measures taken for the submission of the Constitution to the people, for their deliberation upon the question of its adoption. The delegates in the national Convention reported its action on the 25th of October, 1787. The House on the 29th of the same month, unanimously recommended to the legal voters of the State to meet on the 4th Tuesday in November then next and elect three delegates from each County to meet in a State Convention on the 11th of December, 1787, to determine whether to approve or reject the Constitution. This Convention met at the time appointed and organized by the appointment of John Stephens, as President, and of Samuel William Stockton, as secretary. It seemed impressed with the gravity of the occasion; adopted rules for its government and then solemnly resolved: "That the Federal Constitution be read by sections, and that, as so read every member make his observations thereon; that after debating such section, the question be taken whether further debate be had thereon; and if determined in the negative, that the Convention proceed in like manner to the next section, until the whole be gone through; upon which the general question shall be taken, whether the Convention in the name and on the behalf of this State do ratify and confirm the said Constitution." All this was done without haste, with due deliberation and on the 18th of December, just one week from the first day of the Convention, the Constitution was unanimously adopted without a single amendment. On the next day the members marched in solemn procession to the Court House where the new organic law of the Republic was read to the people.

Since that time fifteen amendments to the Constitution have been passed, in pursuance of its fifth clause, twelve of which have received the assent of the Legislature of New Jersey. The majority of the Assembly withheld its approval of the XIIIth, XIVth and XVth amendments, but they were ratified by a sufficient number of States to give them the full force of Constitutional law.

The advantageous results of this Constitution to New Jersey have been incalculable. Her position between the two large preponderating States of New York and Pennsylvania, connected with the fact that although she has a large extent of sea coast, there is no port on her ocean front into which foreign commerce enters, has made her citizens dependent for many necessary supplies on the two cities of New York and Philadelphia.

The Federal Constitution of 1787 has received much consideration

from subsequent historians, but it is doubtful whether any one of these has succeeded in tracing the origin of this remarkable document to its real source. It was by no means the invention of the sages and statesmen who composed the Convention that finally wrought out this grand work. Its beginning must be traced to a period long prior to the close of the XVIIIth century—to the germ and growth of that indomitable spirit of the Anglo-Saxon which wrested the Magna Charta from the despicable John Plantagenet, at Runnymede; which impelled Hampden, Selden, Pym and their fellow patriots to antagonize Charles I, in their battle for the rights of British subjects; which mercilessly decapitated that same Charles and raised Cromwell to be ruler of England and which sent good men and true from home and country and friends to rear in the wilds of a western home an empire dedicated to freedom.

That same spirit which incited the English patriot to such glorious deeds in the cause of freedom came to this western world and more than two hundred years before the adoption of the Constitution, in 1787, made itself heard here, faintly, it is true, at first, but in louder and more forceful tones as time went on. In 1584, Sir Walter Raleigh came to Virginia with a charter containing the first germ of that recognition of popular rights, which by a process of evolution through the succeeding two centuries, finally culminated in that palladium of liberty sent out to the world from the new Republic on the 17th day of September, 1787. During those two centuries the establishment of the rights of the people through charters, concessions and constitutions had been constantly going on; none of them more strongly expressed the doctrine that all government must come from the people than did those two immortal documents, the "Grants and Concessions" of Berkeley and Carteret and the "Concessions and Agreements" of West Jersey; none of those which were granted to the American colonies so fully recognized the inherent rights of the citizen and none made more ample provision for the protection of those rights.

But, while all this may be true, the Constitution of 1787 was forced in many instances upon unwilling States, who adopted it from stern necessity and not because it was approved. Subsequent experience, however, has taught the descendants of these opposing citizens that it was the wisest gift ever made to any people. What, most of all, led to its formulation was the calamitous results arising from the adoption of the Articles of Confederation.

By the force of the provisions of that Constitution, New Jersey has been enabled to protect her agriculture and manufactures, for both of which she is admirably provided by her fertile valleys and her mines and numerous streams. Her course, since its adoption, has been progressive on all the lines of National prosperity, and now she stands foremost among the States in the acquisition of those appliances which make up an influential commonwealth.

Since the Revolutionary war and that of 1812, up to the adoption of the Constitution of 1844, the Judicial and Civil History of New Jersey can be written on a few pages.

After a long and somewhat acrimonious discussion between the Commissioners appointed by the two governments, for the purpose of establishing peace between England and America, the Articles of pacification were signed on the 30th of November, 1782. Those articles were most advantageous for the Republic and were secured by the skill and perseverance of the American Commissioners, John Adams, Benjamin Franklin, John Jay and Henry Laurens. They were, however, merely preliminary and the treaty of peace did not go into effect until January 20, 1783. Lafayette was the first to receive tidings of the pacification, which were sent him by letter received March 24th of the same year. The American Commissioners forwarded a copy of the treaty early in April, and on the 19th of that month the war was ended. But prior to that date the declaration of peace had been celebrated with imposing ceremonies at Trenton.

Peace had come at last; grim war had ceased, and the patriot soldiers returned to their farms and their shops, soldiers no more, but citizens assuming the duties of civic life in the country they had saved. The Legislature was now freed from the care of providing for soldiers in the field, and, although it had never lost sight of the true interest of its constituents, yet, now, it could give undivided attention to the protection of those appliances which peculiarly demand the fostering care of the law making power. The three branches of the government, the executive, legislative and judicial, were united in their efforts to aid the people in their attempts at recuperation; the people responded willingly and gladly to the demands made upon them by the exigencies of the times. It was a sublime spectacle—the self-sacrificing spirit, the ready alertness, the cheerful performance of duty, which at that crucial hour animated all classes. The people of the State were essentially a religious people, and one of their first tasks was the rebuilding

of their houses of worship, many of which had been burned by the enemy. In many instances, where, although church edifices escaped destruction, more commodious ones were needed, it was amazing to witness the energy and promptness with which those wants were supplied.

This same indomitable spirit was manifested in all directions; the people were animated with one impulse—to shake off the evils resulting from the war, to free themselves and their families from the hard, grinding poverty which had followed them. The country was free, they were all freemen, the Republic was theirs, and they resolved to make it worthy of the home of Liberty. They were eminently successful in their efforts. In a very few years the State was on the high road to prosperity; manufactures were firmly established; mines were opened; and the wealth stored by Nature in the rugged hills of New Jersey, was made subservient to its success. In all the avenues from whence come appliances for a Nation's best growth, the industries of the commonwealth were stimulated and protected. Wise men were selected for Governors and members of the Legislature. William Livingston; of whom mention has already been made, after thirteen years' service as the Executive of the State, was succeeded by William Paterson, who held the office until 1792. The successors of Paterson, up to the year 1844, when another Constitution was framed, were fifteen in number, ten of whom were of the political party known as Democrats and the others were Federalists. These terms, at first, were intended to represent two political parties, one of which favored the centralization of power in a general government and the other opposed that principle. The Federalist party, which supported the Constitution, was led and largely influenced by Alexander Hamilton, whose masterful spirit controlled and guided it, at first, to victory. Its opposition to the war of 1812, and the Hartford Convention aided materially in its total destruction. It disappeared about 1820 and other parties arose under different names and with various principles.

The following is a list of the Governors of New Jersey with the times of their service:

William Paterson, Federalist	1790–1792.
Richard Howell, Federalist	1792–1801.
Joseph Bloomfield, Democrat	1801–1803.

In 1802, there was a failure to elect a Governor, in consequence of a tie vote in the Legislature, and John Lambert, President of the Council and a Democrat, acted as



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Governor, in pursuance of a provision of the Constitution of 1776. In 1803 Joseph Bloomfield was re elected Governor and held office until 1812.

Aaron Ogden, Federalist.....1812–1813.
William S. Pennington, Democrat.....1813–1815.
Mahlon Dickerson, Democrat.....1815–1817.
Isaac H. Williamson, Federalist.....1817–1829.

In 1829, Garret D. Wall, Democrat, was elected, but declined, and, in the same year, Peter D. Vroom, Democrat, was elected and held office until 1832.

A few years before this time, the name Federalist, as distinctive of a political party, had disappeared and the two great parties were known by the names of Whig and Democrat, though the Whig party by no means assumed the principles of the Federalists.

Samuel L. Southard, Whig.....1832–1833.

Mr. Southard, during his term was elected United States Senator and Elias P. Seeley, Whig, was elected for the balance of his term.

Peter D. Vroom, Democrat.....1833–1836.
Philemon Dickerson, Democrat.....1836–1837.
William Pennington, Whig.....1837–1843.
Daniel Haines, Democrat.....1843–1844.

CHAPTER XII.

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Constitution of 1776 Lacking; Attempt made to Change, in 1790; In 1844, Act Passed to Elect Members to Convention to Prepare New Constitution; Provisions of Act; Isaac H. Williamson, President; Alexander Wurts, Vice President; Mr. Williamson Resigns; Wurts Elected President; Convention finished its Labors June 29th, 1844; Constitution Signed, Presented to the Governor and Filed in Office of Secretary of State; People by Large Majority Ratified It; Changes in Government Created by New Constitution; Difficulty about Senatorial Districts; List of Governors Since 1844; Decision of the Courts as to the Constitutionality of System of Dividing States into Legislative Districts.

It was very soon ascertained, after the peace between England and America, that the Constitution of 1776 was not adapted to the growing necessities of the Commonwealth. As early as 1790, an attempt was made in the Legislature to provide for the election of members to a Convention to revise the Constitution. But this attempt failed. It

was acknowledged by all that there were errors in the organic law, but the people did not seem ready for a change. Discussions in the Legislature and elsewhere took place from time to time, relative to amendments, but it was not until 1843 that the growing discontent culminated and took definite shape. In that year, Daniel Haines was elected Governor, manifested a deep interest in the subject and in his annual message to the Legislature recommended the passage of a law calling a Convention together to revise the Constitution. In accordance with this recommendation, the Legislature, on the 23rd day of February, 1844, passed an act entitled "An act to provide for the election of delegates to a Convention to prepare a Constitution for the government of the State, and for submitting the same to the people thereof, for ratification or rejection." By the terms of this act, an election for delegates "to meet in Convention to frame a Constitution for the government of the State" was to be held in the several Counties, on the 18th of March then next, to elect delegates equal in number to the members of the Legislature from the various Counties. The Convention was to assemble at the State House, in Trenton, on the 14th day of May. After a Constitution had been adopted, it was to be submitted to the people on the 2nd Tuesday of August following, who were to vote by using the words: "Constitution" if in favor, and "No Constitution," if opposed. Isaac H. Williamson, former Chancellor, was elected President of the Convention and Alexander Wurts, Vice-President. Mr. Williamson became ill during the Convention and resigned his office and Alexander Wurts was chosen in his stead. The Convention met promptly on the day appointed and finished their labors on the 29th of June, 1844. By common consent the members were equally divided between the two great political parties then in existence in the State, so that no partisan measure entered into the result of the discussions of that Convention. Great care was taken in the selection of the members and the best men in the State were chosen. Every Article was subjected to the severest criticism and everything was done in order and with deliberation. On the day when the Constitution was signed by the President, Secretary and Assistant Secretary, it was delivered by the President, Mr. Wurts, to Governor Haines, who ordered that the same should be filed in the office of the Secretary of State and the original Constitution thus signed was filed by Charles G. McChesney, then Secretary of State, in his office, on the same day. On the 13th of August, 1844, the Constitution was submit-

ted to the suffrages of the people and was adopted by a very large majority, the number of votes cast in its favor being 23,371 and those in opposition, 3,526.

This Constitution very materially changed the government of the State. The office of Governor had theretofore combined the two departments of the Executive and the Court of Chancery, the Governor being Chancellor. The Governor also was thereafter elected by the people and ceased to be Chancellor. The Council, under the old Constitution, had been the Court of Appeals in the last resort; a new Court of Errors and Appeals was created, consisting of the Chancellor, Chief Justice and Associate Justices of the Supreme Court and lay members, the object of this being to retain the popular element in this high court. Judges of all the courts except Justices of the Peace, Senators and many minor offices were nominated by the Governor and elected with the consent of the Senate, which took the place of the former Council. The rights and privileges of the citizens were specified in what might be called a Bill of Rights introduced into the Constitution. A vexed question arose before the Constitutional Convention, which, at one time, promised to give rise to serious difficulty. The Council, under the old Constitution, was composed of one member from each County. The representatives in the Convention from the larger Counties insisted that this was an injustice; the small County of Cape May had the same influence, so far as votes went, in the proceedings of the Senate, as did the larger Counties of Essex, Monmouth and others. The proposition was introduced and strenuously supported that the State should be divided into senatorial Districts, making the representation in the Senate dependent upon the number of inhabitants and not upon the territorial lines of the Counties. One gentleman who strenuously supported the district system, a man of great sagacity and undoubted patriotism, left the Convention and refused to sign the Constitution, because this plan was not carried out. The Governor was to be elected for the term of three years and was not eligible for office at any time during the three years succeeding the expiration of his term; neither could he make any nominations during the last week of that term. These were the main differences between the two Constitutions Since the adoption of the one of 1844, various attempts have been made to amend it.

There are different opinions as to the character of this new Constitution, but, whatever they may be, it certainly was a great improvement upon

that of 1776, and it is very doubtful whether any better organic law exists in any of the other States of the Union.

The Governors of New Jersey, since the adoption of the Constitution of 1844 have been the following:

Charles C. Stratton, Whig,	1845–1848
Daniel Haines, Dem.	1848–1851
George F. Fort, Dem.	1851–1854
Rodman M. Price, Dem	1854–1857
William A. Newell, Rep.,	1857–1860
Charles S. Olden, Rep.	1860–1863
Joel Parker, Dem.	1863–1866
Marcus L. Ward, Rep.	1866–1869
Theodore F. Randolph, Dem.	1869–1872
Joel Parker, Dem.	1872–1875
Joseph D. Bedle, Dem.	1875–1878
George B. McClellan, Dem.	1878–1881
George C. Ludlow, Dem.	1881–1884
Leon Abbett, Dem.	1884–1887
Robert S. Green, Dem.	1887–1890
Leon Abbett, Dem.	1890–1893
George T. Werts, Dem	1893–1896
John W. Griggs, Rep.	1896–

It would require more space than can be given in this volume to notice the legislation from the adoption of the Constitution of 1844 until the present time; besides, it is very easily accessible through the published laws and it is therefore deemed unnecessary to give it here. A decision of the courts, rendered in 1893, however, is so intimately connected with the construction of the Constitution of 1844 that it ought be noted. Almost immediately after the adoption of the new Constitution, the Legislature divided the different counties into districts; the voters residing in these districts were called upon annually to elect a member to represent their district in the Assembly. This system continued until 1893, when the question was submitted to the courts whether that course was warranted by the new organic law, and the Supreme Court decided that it was unconstitutional. On an appeal from that decision, the Court of Errors confirmed it and the people of the State were driven to the old system of electing the Senators and members of the Assembly, by a general vote of the County. The division of the State into legislative districts had placed it within the power of demagogues to elect men of inferior calibre as members of the law making body and that body sadly deteriorated in character. Whether the re-

turn to the old method will work a remedy of the evil, remains to be seen.

New Jersey, in its history, from the beginning of its statehood until the adoption of this vicious method of electing members of the Legislature by districts, had acquired a reputation of calling upon the best men within its bounds to make its laws. It is to be hoped that this return to the old system will again bring to the front men of undoubted character and ability to perform the highest duties to which the citizen can be called—to mould and shape the legislation of his State.

CHAPTER XIII.

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The courts of New Jersey were not established upon any settled plan, nor upon any perfected system, until about the beginning of the eighteenth century. This was due, in a very great measure, to the peculiar circumstances connected with the early settlement of the colony. The first white population was by no means homogeneous. The Dutch, with a few Norwegians and some Danes, went into Bergen County, on the Hudson River; the Puritans, from New England, settled on the Passaic River, at or near Newark; a few English came direct from England and established themselves in and around Elizabeth Town and Perth Amboy; the Quakers peopled the central part of the State; and the Swedes and some few Danes sailed up the Delaware Bay and River, and landed in the southern counties. Each of these nationalities brought to its new home its peculiar idiosyncrasies, and each strove to impress itself and its own customs and laws upon the others.

It was perhaps, however, due more to the unsettled state of the country, and to the fact that the new settlers were necessarily so intent upon securing for themselves and their families the absolute necessaries of life, and in softening the asperities of their condition, that they had no time to provide for the wrangles of suitors. There was no necessity that their attention should be given at once to the perfecting of a system of jurisprudence; but there was need that means should be taken to preserve life, and their wives and children must be fed.

The early division of the colony into two distinct, independent districts or provinces was also a hindrance in the way of an early settlement of so important an adjunct to civilization as the establishment of tribunals for the adjustment of disputes between citizens, arising from

the varied interests of a bustling, thriving community. It is true that that division was not made until 1676, and that forty years, at least, prior to that time, settlements had been made; but those settlements were few and scattered at different points, and it must not be forgotten that the population was made up of people possessing many different characteristics.

The settlers in East Jersey were restless, restive under restraint, and would brook no interference, either real or fancied, with their rights; while those of West Jersey were more peaceable and more disposed to submit, yet when occasion demanded were sturdy in insisting that their privileges should be respected and preserved.

But though there was no settled system of jurisprudence, no tribunals established by legislative authority, where suitors could be heard, their antagonistical claims adjusted, and justice done to all parties according to law, still courts of a certain kind were to be found about the beginning of the last half of the seventeenth century. No legislature had met which had the authority to establish courts when these tribunals first came into existence; so they had received no legislative sanction. Some of them, in fact, were created by the immediate action of the people, and all the powers they ever possessed came directly from the people.

The first court in New Jersey was a local or municipal tribunal established at Bergen, in what is now Hudson County, near Jersey City. It was created September 5, 1661, when New York and New Jersey were under the dominion of the Dutch, and when Petrus Stuyvesant was governor. The patent for forming this court was signed by Stuyvestant in behalf of their "High Mightinesses, the Lords States General of the United Netherlands, and the Noble Lords Directors of the Privileged West India Company, Director-General of New Netherlands, Curaçoa, Aruba and Borayro and dependencies." This patent had eighteen or twenty sections which minutely described the kind of actions which might be prosecuted in this court. The names of its judges, three in number, were given in the charter, and they were selected by Stuyvesant; it was restricted in its jurisdiction, being confined to the municipality and to the settlement of disputes between its citizens.

Thus was established the first court of any description in New Jersey. When, in 1664, Stuyvesant surrendered to Nicholls, the English commander of the troops sent against New Amsterdam, New Jersey

and New York passed quietly into the hands of the conqueror of Manhattan. The transfer of government did not seem to work any change in this court, but it continued to exist and to perform all its functions until a later period, when its aid was sought at an eventful time in the history of the colony.

At the town meeting held in Newark, in January, 1668, which date, according to the modern method of reckoning time, would be January, 1669, the first action taken was the choosing of "Mr. Crane and Mr. Treat" magistrates for the year "insueing for our town of Newark." There was no similar action up to this time, so far as appears from the records, and no mention of courts nor of magistrates. At the close of this same meeting, if the order of proceeding is preserved by the minutes, this resolution was passed, and, as it is important, it is copied *verbatim et literatim:* "Item, the Town hath Agreed that there shall be Two Courts in our Town Yearly, to hear and try all Causes and actions that shall be Necessary and desired within our Compass and according to our Articles; and that the same shall pass by the Verdict of a Jury of Six men. And one of the Terms is to be the Last Fourth day of the week commonly called Wednesday, in the month of February, and the other is the Second Wednesday of the next following month of September."

This action is deserving of particular notice for several reasons: First, it is the initial attempt, so far as any record is known, to organize a court among the English speaking colonists of New Jersey; second, it originated with the people for their own guidance; third, it guarded the rights of suitors through the intervention of jurors; and, fourth, it fully exhibited the subordination to law of these founders of an empire. They claimed the fullest liberty, but that this liberty should be subject to order and only exercised within the limits of a due observance of the principles of eternal justice. The two magistrates selected were the very best men in the colony; they were revered and respected for their Christian characteristics and for their virtues; they had been the leaders of the people in all their movements, both before their departure from their homes on the Connecticut as well as after they located on the Passaic. But even such men were not permitted to sit in judgment upon the rights of their fellow-citizens, nor to settle their disputes without the aid of a jury. The Anglo-Saxon element, which deemed a jury indispensable for the preservation of individual rights, here asserted itself. From this time onward, from year to



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year, constant reference is made in the town records to these courts, to the election of magistrates, and to other measures connected with them. It is noticeable that the very best citizens were selected from time to time to fill the important position of judges. The fees were regulated by a vote of the citizens; one man was chosen as the head of the tribunal; constables and other officers were selected, and a general supervision of these courts was carefully maintained. Their jurisdiction was not limited, nor were their powers definitely defined by any authority; but they seem to have been established for the purpose of settling the disputes of a primitive people, and were of the nature of *picpoudre* tribunals. At neither of the sessions of the first legislative assembly of New Jersey, which met in 1668, was there any action taken about courts. Seven years elapsed before another assembly met. Neither the people nor the Governor of the province, nor his Council, deemed courts to be of any great necessity; nor, in fact, were they necessary until they were required by the wants of an increasing population. Even in New York, far more populous than New Jersey, during the administration of Governor Nicholls, from 1663 to 1667, there were no courts. Nicholls took upon himself the sole decision of all controversies between suitors. Complaints came before him by petition, "upon which he gave a day to the parties, and after a summary hearing pronounced judgment." It cannot be ascertained that this state of things existed in New Jersey; it is more than doubtful if it ever did.

In 1668 there was a local or municipal court at Woodbridge, similar to that in Newark; but when it was created is not known, nor can its exact powers be defined. It was certainly of a very limited jurisdiction, and merely local in its authority. It is supposed that it was established by virtue of the charter of that town. A very shadowy tradition existed at one time, that before 1668, a local tribunal had been created at a small settlement near Hackensack, in Bergen County; but even the tradition is so mythical that no credence whatever can be given to it.

About this time, in 1670, a controversy sprang up between Governor Carteret and some of the early settlers relative to the payment of quit rents. Many of the colonists refused to pay the rent demanded by the proprietors, who had succeeded by grant to the rights of the Duke of York. They not only refused to pay, but most vigorously and sharply attacked the title of the lords proprietors. Carteret was the representative of these proprietors, and sought to obtain payment of this rent.

There were no courts of competent jurisdiction to whom he could apply for judicial aid. He exhausted every means of compelling payment, and in this dilemma sought to enforce his demand and obtain payment through the intervention of these two courts at Bergen and Woodbridge. He endeavored to enlarge their jurisdiction so as to give them power to hear and determine his contention with his refractory tenants, and make them amenable to the judgment of the courts. In this, however, he utterly failed. The courts, even if they were willing to aid the Governor, which is extremely doubtful, were too feeble to quell the disturbance, or afford any relief to Carteret; and he abandoned the attempt.

There were some other courts, as early as 1667, in Monmouth County, created under a patent from Governor Nicholls of New York, who had dispossessed Stuyvesant. But these tribunals were short-lived, and very soon went out of existence. The right of Governor Nicholls to grant any patent for any purpose, in New Jersey, more especially to create a court, was strenuously assailed at the time; and these courts were soon abandoned, and before their legality could be fairly tested.

Berkeley and Carteret, the assignees of the Duke of York, and the first proprietors of New Jersey, by their "Concessions,"—which formed the first constitution of the Province, and played a most important part in the history of the State,—granted to the General Assembly the power of creating courts and of defining their jurisdiction.

In 1675 the Assembly of East Jersey met, seven years after it had adjourned at the close of its second four-days' session, in 1668. The very first act passed by this second Assembly was one which provided for the establishment of courts throughout East Jersey. The courts which then existed were merely local, and were the creatures of the people. Now, the Legislature took the matter in hand, and enacted a law providing for the creation of general courts which should have legislative sanction, with defined jurisdictions and settled powers. These courts were of three kinds: First, one for the trial of small causes, to be held in each town once every month in the year, and to have jurisdiction in cases where the amount in dispute was less than forty shillings. The judges of this court, of whom at least one must be a justice of the peace, might be two or three in number, as the people should determine, and were elected by the voters of the different towns. This court still survives in the Justice's Courts of to-day, which were then and are still called courts for the trial of small causes. One merciful feature in-

troduced at this early date is retained to this day, in the stay of execution.

Another kind of court created by this second Assembly, in 1675, was the County Court of Sessions, which was required to hold semi annual meetings in each county. The judges of these courts were also elected by the people of the different counties, and from the people. They exercised both civil and criminal jurisdiction and their powers were enlarged as far and as wide as it was possible to be done by the use of words. All "causes actionable" was the term used with reference to actions which might be prosecuted in these tribunals. This seemed certainly very comprehensive and unlimited. But, when it is remembered that at that early period in the history of the colony no very complicated issues could have arisen, the jurisdiction could not have been so very unlimited after all. From these County Courts appeals from judgments for twenty pounds and over could be made to the "Bench" *or* to the Court of "Chancery." What was meant by the "Bench" is not exactly known, but it certainly must have referred to the Court of "Assize," which was the third kind of court created by this Assembly of 1675. This was a provincial tribunal, and was to be held yearly at Woodbridge, or wherever the Governor and Council should direct. It had original as well as appellate jurisdiction, and was the precursor of the Supreme Court as afterwards more fully established. Appeals lay from the Court of Assize to the Governor and his Council, and from them to the king, who was, of course, the last resort.

In 1682, after the division of the colony into East and West Jersey, a change was made in these various courts. The suitors in any case in the courts for the trial of small causes were entitled to a trial by jury. When it is remembered how trivial were the amounts necessarily involved in cases before these tribunals, it will be understood with what reverence this right of being tried by their peers was regarded by the early settlers in East Jersey. This province was then divided into four counties,—Bergen, Essex, Middlesex and Monmouth, — and it was enacted that the County Courts should meet four times yearly in each one of these counties, and the judges were to be the justices of the peace of the several counties, of whom at least three must be present to constitute a quorum. For the first time in the history of the Colony a high sheriff was provided in each county, to whom all processes issuing out of the County Courts were to be directed. The Court of Assize, the Supreme Court of the colony, now became the Court of Common Right.

This new name is mentioned in the instructions from Robert Barclay and the other Proprietors to Gawen Laurie, the Deputy Governor. This Court of Common Right was presided over by "twelve members or six at least;" and instead of one yearly session, it was to hold four sessions a year at Elizabeth Town. Subsequently, after a severe struggle, in 1686, it was directed that it should be held at Perth Amboy.

To this simple system, thus established more than two hundred years ago, may be traced the present jurisprudence of New Jersey. Justices' courts still exist with limited jurisdiction,—the justices now, as then, elected by the people,—before whom could be tried the smallest, most trivial of causes, meeting the wants of the common people; County Courts, now the Circuit and Common Pleas, with jurisdiction over all disputes arising between citizen and citizen; then the Supreme Court, with original and appellate jurisdiction; then the Governor and Council, who formed simply an appellate tribunal. Until the new Constitution, established in 1844, the Council chosen by the people was the Court of Appeal in the last resort, where the Governor, if he chose, might preside, but which generally had for its presiding officer a President elected by the members.

There was a remarkable fact connected with the legislation respecting these early courts. In the law constituting them there was no provision for their guidance; no rules by which they were to be governed; no mode established by which their judgments were to be enforced; there was no Practice Art, nor anything like it. The statutes constituting them were the simplest possible; the tribunals were created, their titles given, and the times and places when and where they were to meet; and that was all.

An officer, called the High Sheriff, was to be elected in every county; but the act providing for his appointment failed utterly to state what were his duties, or to make any provision concerning him other than his mere title. The following is the act passed in 1682: "An Act to appoint Sheriffs. Forasmuch as there is a necessity of a High Sheriff in every County in this Province, Be it therefore enacted by the Governor, Council, and Deputies in General assembly met and assembled, that there be yearly a Sheriff constituted and commissioned for each County, and that each Sheriff may appoint his under Sheriff or Deputy."

Grand juries were directed to appear at the County Courts; but what made them eligible, of whom they should be composed, by whom they

should be summoned, and what were to be their duties, was not stated. This all seems inexplicable, and it appears most difficult to understand the apparent inconsistency, or to solve the mystery. These laws can only be explained or interpreted in one way. The early settlers in East Jersey were mostly Englishmen, and as such were thoroughly acquainted with the principles of the common law as it existed in the mother country, where courts of similar name and like character were to be found. These courts in England were governed by the rules of that universal law so dear to every Englishman's heart. The English colonists had drunk deep and long draughts from the fountain of liberty, which had been opened in the time of Charles II. when Selden and Eliot, Pym and Hampden had taught a wicked and sensual king that his subjects had rights which he must respect, and when Sir Matthew Hale was Chief-Justice and Lord Nottingham was Lord Chancellor. These colonists had fled from their old home beyond the sea to escape religious persecution; but they brought to their new home those unquenched and unquenchable aspirations for civil as well as religious liberty which impelled them ever to provide for absolute freedom from oppression and for the preservation of their political rights. They were stern and unyielding in their religious views, and they were equally unyielding when their political freedom was endangered, and watchful in guarding against any action by Governor, or State, or Legislature which seemed at all like interference with their rights as citizens. This feeling pervaded all classes and led them to seek to discover what were the best foundations of civil liberty; so, they studied the principles of the common law of England and needed no statute to enable them to understand how to conduct the courts provided for them. They needed only courts properly constituted; and falling back on their knowledge of the modes of procedure in similar courts in the mother country, they required nothing more. It was remarked by one of the greatest of English statesmen that with the exception of religious books, no volumes were more readily sold in the colonies than those relating to law.

The courts of which mention has been made were those which were established in East Jersey. When the colony was divided into East and West Jersey, a line drawn from Little Egg Harbor extending irregularly northward, a little west of north, and reaching the Delaware River at the 41st degree north latitude, was the boundary between the two new districts.

It will be remembered that the first Legislature in East Jersey which took any notice whatever of courts, met in 1675. The first Legislature in West Jersey which constituted any courts, so far as can now be ascertained, met in 1682. At this meeting County Courts, which were called Courts of Sessions, were created. But these courts at first were established only in Burlington and Salem Counties. In 1693, they were extended to Cape May, which was then a new county.

Before this time, courts for the trial of small causes existed all over West Jersey. They were held by one justice of the peace and had jurisdiction over actions which involved forty shillings and under. An appeal lay from them to the County Courts, which met quarterly and were held by three justices of the peace of the county. These courts could not try any indictments for murder and treason, but with these exceptions they had unlimited jurisdiction over all causes, both civil and criminal. They were, in fact, the great courts of the Province, and from them, for many years, there was no appeal.

In 1693, a Supreme Court of Appeals was created, of which the judges were one or more of the justices of the counties, with one or more of the members of the Governor's Council; any three of whom, one being of the Council, made a quorum. At first, this court was strictly appellate, but in 1699, it was materially changed. It then became the Provincial Court, and was held by three judges appointed by the Legislature, or House of Representatives, as that body was then called, and one or more of the justices of the peace of the counties. Two of the judges appointed by the Legislature, in connection with three of the justices, constituted a quorum. It had original as well as appellate jurisdiction, sat twice a year, and from its judgments for twenty pounds and more, an appeal could be taken to the General Assembly. In the same year a Court of Oyer and Terminer was established for the trial of criminal cases. The court was held by a judge appointed by the Governor and Council, assisted by two or more of the justices of the county where the crime was committed.

West Jersey was very largely under the influence of the Quakers, and the spirit of those peace-loving men was manifested in jurisprudence and in the formation of their courts. Up to the time of the creation of the Oyer and Terminer, there was no tribunal in West Jersey which could try a capital offence. In fact, the punishment of death for any offence was not mentioned in any of their statutes. The crimes of murder and treason were triable by the Court of Oyer and Terminer;

but if the accused were convicted, his punishment was referred to the Governor and his Council.

The contrast between this penal code of West Jersey and that existing in East Jersey was most remarkable. The settlers in East Jersey drew largely upon the Mosaic law for penalties for crime. In cases where domestic animals were the occasion of injury to any human being, this was most specially the case; the provisions of the Levitical law being literally copied. In this province, there were thirteen crimes punishable with death, to wit: Murder, Arson, Perjury, "Stealing away any of mankind," Burglary and Robbery, on the commission of the third offence, Witchcraft, Conspiracy to invade or surprise a fort, Theft, where it was incorrigible, Smiting or cursing a father or a mother, on the complaint of the parent, Rape, subject to the discretion of the court, and gross and unnatural licentiousness. But life, in no instance, could be taken without a trial by jury and the evidence of two or more witnesses was invariably required. A jury was guarantied in all cases, whether civil or criminal. The punishment by whipping entered very largely into the penal code of East Jersey.

In West Jersey there was no enactment which provided any punishment for the crimes of murder, treason, or arson; and during the twenty-four years of the Quaker administration there was not a single case of an indictment for any of these offences. There was, in fact, no mention of a punishment by death for any crime in the statute book of the Province.

While the Puritan element in East Jersey thus asserted itself by these sanguinary laws, that same element was unsurpassed in its jealous preservation of the personal rights of the individual citizen, and in its protection of the suitors who sought the aid of the courts.

In other directions, the influence of this element was manifest. It made the amplest provision for the education of the youth of the community. The foundation of the very best system for the maintenance of common schools was laid in an act passed in the early history of the province. It introduced, by solemn act of the Legislature, the pious custom of setting apart a day for public Thanksgiving, but the Puritan never learned the Quaker's true spirit of liberality in permitting others to worship God as they chose.

It is not known who was the author of that wonderful document called the "Concessions" which was the real constitution of the Province of West Jersey, though William Penn was one of its Proprietors

and doubtless a leader among its citizens. It was worthy of the broadest-minded statesman who ever ruled the destinies of a nation, and, considering the tendency of public sentiment of the time, it is amazing that such a document could have been produced. "No man nor number of men upon earth," says this immortal declaration, "have power or authority to rule over men's consciences in religious matters; therefore it is agreed and ordained that no person or persons whatsoever within the said Province (of West Jersey) shall at any time hereafter, in any way or upon any pretense whatsoever, be called in question, or in the least punished or hurt, either in person, privilege or estate, for the sake of his opinion, judgment, faith, or worship, in matters of religion."

The "Concessions" of Berkeley and Carteret were liberal and tolerant, but they were prompted by the desire to secure immigrants for the new colony, and were based upon selfish considerations. For once, avarice surrendered to principle; but the "Concessions" of West Jersey were the honest declarations of pure-minded, liberal-hearted men, who had learned mercy in the terrible fires of persecution, who desired to benefit their kind, and who determined to found a State upon the eternal principles of justice and truth, of righteousness and freedom.

The Court of Chancery was not at first popular with the people of New Jersey. They originally submitted to the fact of its existence and to its jurisdiction with a sort of protest. It is probable that in the early history of the colony a court of equity was not needed. In the simple methods of dispensing justice, the stricter rules of the common law were so tempered with equity that it was not necessary to resort to a court of chancery. Thomas Olive, Governor of West Jersey, would sometimes be called upon by suitors to determine controversies, when, sitting on a stump in his field, he would settle the dispute on the spot, and generally to the satisfaction of both parties.

The dislike of the people to the Court of Chancery was due, probably, to the fact that its procedure dispensed with a jury, and the Saxon element in the settlers revolted against a court which enforced decrees and judgments pronounced by a single judge. But the institution of equity tribunals was of English origin, and after a time of distrust and jealousy, this prejudice was gradually softened and finally dispelled.

It is very difficult to establish a time when the Court of Chancery began its existence as a separate institution. It certainly was in being early in the history of the province, before its division into East and West



DAVID A. DEPUE.

Jersey—undoubtedly earlier than 1675. In that year the General Assembly enacted a statute providing that appeals from the County Courts might be made to the Bench "*or* to the Court of Chancery." The subject of this Court will be considered hereafter.

Although the character of Lord Cornbury was not such as to fit him to be intrusted with authority over the colonies, he had some ability and his efforts to organize the courts of New Jersey on a more systematic basis were eminently successful; to him and his guiding hand may be attributed the present condition of the legal tribunals of the State. There has been very little, certainly no substantial, change in the Constitution and procedure of the courts since his day. Before his time, the creation of courts and the election of judges were vested in the people and Legislature,—the people electing the justices of the peace and the judges of the County Courts; the Legislature choosing the judges of the higher courts. By his commission, Lord Cornbury was vested with full power to "constitute and appoint Judges, and in cases requisite, Commissioners of Oyer and Terminer, Justices of the peace and other necessary officers and magistrates in our said Province, for the better administration of justice and putting the laws in Execution."

This authority was exercised by the colonial governors up to the time of the Revolution. For many years after that event the Legislature elected justices of the peace and the judges of the Court of Common Pleas; the Governor, by and with the advice and consent of the Council, until the Constitution of 1844, nominated the justices of the Supreme Court.

The Constitution of 1776 made no change either in the names, nor in the procedure, nor in the jurisdiction of the courts. It continued in force until 1844, when there was a very material change in some of the courts. The Court of Common Pleas and the Supreme Court remained the same; justices of the peace still had cognizance of small causes. But there was a vital alteration in the Court of Chancery. Up to that time, the Governor of the colony and of the State had been the chancellor, so that a lawyer was required to fill the office of chief magistrate. By this new organic law, the Governor ceased to be the chancellor and on him was laid the responsibility of selecting the justices of the Supreme Court and the chancellor; but this selection must receive the sanction of the Senate, which now took the place of the Council. Under the Constitution of 1776, the Governor was elected

from year to year; now his term expires only after three years and the chancellor's term was extended to seven. Appeals in the last resort, instead of being submitted to the Council, now go up to the Court of Errors and Appeals, composed of the chancellor, the justices of the Supreme Court, and six lay judges who are nominated to the Senate by the Governor. Under the new Constitution a return was had to the old method of electing the justices of the peace by the people.

There were two glaring defects in the jurisprudence of the State as established in this Constitution of 1844,—one, the composition of the Court of Appeals, in the introduction of the lay element; and the other, the election of justices of the peace by the people. Both were compromises, and, like most compromises, mischievous. For a time, under the new Constitution, the judges of the Court of Common Pleas were elected by the Legislature in joint meeting; but now, by statute, the responsibility of selecting these officers is laid upon the Governor, who nominates them to the Senate, which may confirm or reject the nominations.

When Lord Cornbury undertook the task of reconstructing the courts of his province, he found a framework ready to his hand which only needed filling out and perhaps required some additions. The proprietary courts had met all the requirements of the community, but there were many inconsistencies and blemishes in them and a guiding master mind was needed to reduce them to order, lop off excrescences, introduce precision, make them consistent with each other, and, above all, produce system out of disorder. It is quite doubtful whether the measures he adopted originated entirely in his own mind; they hardly seem consistent with the frivolity and meanness of his nature. In fact, the conclusion can be fairly reached that he was very materially aided by a lawyer of mature life who came from England about that time, who had attained some eminence in his profession at home, and who afterward became the first Chief-Justice of New Jersey.

Lord Cornbury's efforts at reforming the courts was by ordinance, and without the intervention of the Legislature. He recognized in his ordinances, however, the action of his Council, which had been selected for him by his sovereign, to aid him in his responsible position of Governor. His first ordinance is not dated; but it was promulgated in 1704, and somewhat less than two years after he received his commission. By this ordinance he invested every justice of the peace with full jurisdiction over all causes of debt and trespass to the value of forty shil-

lings and under, which "causes or cases" might be heard, tried and finally determined without a jury. The mode of procedure in such cases was particularly prescribed. By the same ordinance he also established Courts of Common Pleas in each county in the colony, the sessions of which were to be held four times each year at the same place where the Courts of Sessions were held, and immediately after their adjournment. These Courts of Common Pleas had "Power and Jurisdiction to hear, try and finally determine all Actions or Causes of Action, and all Matters and Things Tryable at Common Law of what nature or kind soever." From these courts an appeal was had where the judgment was for ten pounds or upwards, or where the right or title to land, "or anything relating thereto," might be brought into dispute. The ordinance did not provide to what tribunal this appeal could be taken; but it was presumably to the Supreme Court, which was created at the same time and by the same ordinance.

The royal governor also provided for the formation of General Sessions of the Peace, which, like the Common Pleas, were to sit four times yearly in each county, but could continue in session only four days at one time. The terms of the Common Pleas were to begin immediately at the close of the Court of Sessions and could continue for three days. The jurisdiction of the Court of General Sessions was exclusively criminal.

A "Supream" Court of judicature was also created by this ordinance, which was directed to sit alternately at Perth Amboy and Burlington. Its jurisdiction was declared to be the same as that of the Courts of Queen's Bench, Common Pleas and Exchequer in England. This court was required to hold two sessions yearly, but could sit only five days at one time. Circuits of the "Supream" Court were held once in each year in every county in the State by one of the justices of the main court, assisted by two or more justices of the peace of the county where the Circuit sat, but the terms could only be two days.

This Supreme Court was authorized to establish such rules of practice as the judges of the Courts of Queen's Bench, Common Pleas, or Exchequer in England might ordain.

The last section of this ordinance was significant. It provided that no suitor's right of property should be determined by any of these courts, without the intervention of a jury, except where there was an actual confession by the parties of the facts, or where there was no appearance.

There was no mention of the number of judges of any of the courts thus established, nor were any particular persons named for chief or associate justices of the "Supream" Court.

In 1837, a law was introduced into the Legislature by a far-sighted and acute-minded lawyer which proved to be of incalculable value to the State and to suitors. Before that time, carrying out the provisions of Lord Cornbury's ordinance, circuits of the Supreme Court were held in each county. Trials at bar were rarely had; by statute they could not be held before a full bench unless the amount involved was three thousand dollars. Issues of fact therefore, which were begun in the Supreme Court were tried at these circuits; the records from the higher courts were sent to the clerk of the county, who acted as clerk of the circuit, over which a justice of the Supreme Court presided. But unless two hundred dollars were recovered by the plaintiff he lost his costs. Causes for any amount of one hundred dollars and over could be brought in the Courts of Common Pleas; and if judgment were recovered for that amount or more, costs followed the judgments. The jurisdiction of justices of the peace by this time had gradually crept up to one hundred dollars and less; so that suitors for claims less than two hundred and more than one hundred dollars were driven to the Courts of Common Pleas. But the judges who generally presided in those courts were invariably selected from citizens who were not lawyers, and who were appointed by joint meeting or nominated by the Governor. These selections were made for political reasons and to reward partisanship. Regard was seldom had to qualifications or fitness for the position The result was that suitors were obliged to have recourse for their remedies to tribunals where incompetency and ignorance were too often the chief characteristics of the judges, and glaring injustice was too frequently the result.

In the first part of the nineteenth century an unsuccessful attempt was made to remedy the evil. It was reserved for a member of the Legislature from Essex County successfully to work out this remedy. For several years, and until the system had been fairly tested, it was very unpopular; in fact, the lawyer who introduced the plan into the Legislature failed of a renomination on account of its great unpopularity. But time has fully demonstrated its great excellence, and it is now fairly rooted and grounded into the jurisprudence of the State.

These Circuit Courts of the county are of original jurisdiction, and suits of every character, of a common law nature, can be brought in

them; but a recovery of one hundred dollars is necessary to carry costs. The Courts of Common Pleas still exist with the same jurisdiction, but are now almost entirely disused, except for appeals from Justices' courts and the district courts recently established by statute in the large cities. In these appeals the Common Pleas has, in the first instance, exclusive jurisdiction, to which reference has just been made.

The ordinance of Lord Cornbury is really the origin of the Supreme Court of New Jersey, as it exists to-day. From his time until now it has remained the same, so far as jurisdiction and procedure are concerned. The number of its judges and of its terms has been increased. It assumed, at first, the common law procedure, some of which has been altered by legislation, more by the action of the court itself. The old common law method of pleading, which at first also obtained in all its absurdity and complexity, has been materially changed, not so much by statute as by the decisions of the court. Fifty years ago great delays were occasioned by a system of fictitious pleadings. Pleaders may still employ the old system of delay by pleading specially, but they do it at their peril. By statute, pleas intended merely for delay, or which are false or frivolous, may be stricken out by the court. The old fictions of John Doe and Richard Roe, and lease, entry and ouster in actions of ejectment, have been abolished; and now, the real parties in the cause meet face to face, without the intervention of two men of straw, and without the necessity of confessing lease, entry, and ouster, and the case is tried on the merits. Special demurrers are also abolished, and general demurrers only, with specifications of causes, are allowed. The old fashioned style of actions are done away with, and instead, contract and tort are substituted. There have been some other modifications and changes, but they are not radical, nor are they very important. With these exceptions the practice in the Supreme Court is about the same as it was two hundred years ago, when it was first established. Writs of error from judgments in the Circuit Court and in the Common Pleas, and writs of Certiorari, Quo Warranto and Mandamus are brought to this court; and the judge of the Circuit Court of the county may certify cases to the Supreme Court for rehearing. Indictments may be removed from the Oyer and Terminer and Quarter Sessions to this court. It has virtually appellate jurisdiction from all inferior courts. It is now composed of a Chief-Justice and eight associate justices, who hold four

terms a year; and no limit is put to the length of its sessions. Circuits are held four times yearly in each county in the State, over which the Chief-Justice or one of the associate justices presides, in which the issues of fact begun in the Supreme Court are tried.

No provision for appeals from the Supreme Court to any other tribunal was made in the ordinance published by Lord Cornbury; but in the Queen's instructions to him this was arranged. An appeal lay from this court to the Governor and his Council, when the judgment exceeded one hundred pounds sterling. In case any members of the court were also members of the Council, they might be present at the hearing of the appeal, but could not vote. Appeals from the judgment of the Governor and Council lay to the Queen and her Privy Council in cases where the judgment was for an amount exceeding two hundred pounds sterling. In all appeals from the Supreme Court, or from the Council, security was required.

The first term of this Supreme Court thus organized was held on November 7, 1704, at Burlington. It was presided over by Roger Mompesson, its first Chief Justice, and William Pinhorne, its first associate Justice, or, as he was then called, Second Judge. Mompesson was Chief-Justice of New York as well as of New Jersey. On the first day of the session the commissions of the justices were read, and they were sworn in and took their seats, clothed with full power to hold court, hear, try and determine all causes which might be submitted to them. But there were no cases ready, no indictments were found, and after admitting a few attorneys and calling and swearing a Grand Jury and awaiting its return, the court adjourned to meet on the first Tuesday in May then next. The adjournment on the first day was to eight o'clock in the morning of the next day. What the lawyers of the present time would say to such conscienceless action can better be imagined than described.

Roger Mompesson was the son or grandson of an English clergyman, rector of a church in Derbyshire; his family was an ancient one and of great respectability. Mompesson himself had attained to some eminence in his profession; he had been recorder for Southampton, and had served twice in Parliament. He arrived in Philadelphia in 1703. A letter from William Penn to a friend in this country, still preserved by the Pennsylvania Historical Society, speaks in the highest terms of him. Penn in his letter recommends him as Chief-Justice of his colony, but the people did not take kindly to the English lawyer. They re-

fused to pay him any salary; but, as he was appointed Chief-Justice for New York as well as New Jersey, it is presumable that he did not suffer for lack of funds. He became a member of Lord Cornbury's Council, and played a most conspicuous part in the politics as well as the jurisprudence of the colony. There are no reports of his decisions, but the minutes of the Supreme Court are exceedingly full and minute. There are the records of some indictments presented in his court which may be an index to the manner in which he presided and dispensed justice.

Very soon after Lord Cornbury became governor, quarrels originated between him and the citizens of the State and the popular branch of the Legislature. The English practice relative to indictments was, at first, adopted by the Chief Justice. The witnesses were sworn in open court; the bills of indictment were drawn and presented to the grand jury. At the second term of the court several of these indictments were prepared in this way and given to the grand jury. The charges in them were most peculiar,—they were all for seditious words spoken of the Governor. In one case these were the words which were deemed so seditious as to make the utterer liable to punishment: "The Governor had dissolved the Assembly, but they could get another just as good; and if the Governor liked it not, he might go from whence he came." Another indictment was for uttering these words: "I will give you a pot of beer to vote for the old Assemblyman, because they would give Lord Cornbury no more than thirty-five hundred pounds, which his Lordship made a huff at." There were two indictments against the same man; one for saying "that the Assembly could have done their business well enough, but that the Governor dissolved it, which he was satisfied was because they would not give him money enough;" the other was for these words: that "Colonel Morris was dismissed from being of the Council by my Lord, but that it was more than my Lord had power to do." The grand jury, to their honor be it said, ignored these indictments. The Governor, however, was determined not to be balked. His Attorney General was instructed to file informations, which was done in all the cases in the very words of the indictments. It was necessary before informations could be filed, that leave to file must be obtained of the court. This leave was granted, and the defendants were tried. One of them moved to postpone his trial until the next term of the court. The postponement was granted, but upon terms,—first, that he should plead issuably;

second, that he should enter into recognizance to appear at the next term; and third, that he should give security to keep the peace and to be of good behavior. The defendant refused to comply with these conditions. The court, instead of ordering on the trial, committed him for contempt, charging him with abusing the queen's witnesses. Another defendant submitted to trial, but refused to swear any witnesses in his own behalf. The jury rendered a verdict of guilty, but the court did not dare pronounce judgment, and sentence was never imposed. At the next term, one of the other defendants was tried and acquitted, but the court refused to discharge him until he paid the costs of prosecution. The utter subservience of the Chief Justice to his master, the Governor, was fully manifested through all these trials.

Very little is known of the private character of Mompesson; and he may be dismissed with the remark that he gained no credit as a lawyer, no glory as a judge, by his discharge of the duties of first Chief Justice of New Jersey.

At last Lord Cornbury became so outrageous in his deportment that complaint was made to the queen, and in 1710 he was removed; and his first Chief Justice, fearful that he, too, might be removed, resigned. Roger Mompesson, from the time of his resignation, disappears for a short time from the history of New Jersey. He will again appear in the same judicial position, but he is best remembered as the pliant tool and base adviser of the worst governor who ever ruled in New Jersey.

William Pinhorne was associated with Mompesson as the second judge of the Supreme Court. He would now be called an associate justice. Before he became judge in New Jersey he had served in a prominent position in New York. He became *ex officio* Governor of New Jersey when Lord Cornbury was removed. He had been a merchant in the City of New York, and was a member of the Council of that colony until 1692, when, being a resident of New Jersey, he was not allowed to take the oath of office. He purchased during the latter part of the seventeenth century, a large plantation, near Snake Hill, between Newark and Jersey City, which he called "Mount Pinhorne." This property is mentioned in that curious production called "The Model of the Government of East Jersey," printed in Edinburgh in 1685, and written by George Scot of Pinlochie of Scotland. Mr. Scot says: "Next unto Snake Hill is a braw Plantation, on a piece of Land almost an Island, containing 1,000 & 1,200 Acres, belonging to Mr. Pinhorne, a Merchant of New York, and one Edward Eickbe. Its well improved and Stokt. Mr. Pinhorne payed for his half 500 lib."



BENNET VAN SYCKEL.

Mr. Pinhorne was a hospitable man, and had quite a large family. Some of his descendants are still resident in New Jersey, among whom are the children of the Hon. Joseph C. Hornblower, at one time Chief-Justice of New Jersey and one of the most distinguished men who ever adorned the judiciary of the State. Chief Justice Mompesson was a bachelor when he reached this country. He became a frequent visitor at the house of the associate judge and the result was that Martha Pinhorne became Mrs. Mompesson.

Judge Pinhorne attached himself warmly to Lord Cornbury, and became one of his staunchest adherents. He supported the Governor in his quarrels with both people and Assembly. A paper was prepared, most probably by the Governor himself, addressed to the Queen, intended to answer the remonstrance of the Assembly against Cornbury, which assailed the Legislature and some of its individual members in the most slanderous terms. The address was circulated secretly, and although bearing a semi-official character was never entered on the minutes of the Council. Judge Pinhorne signed this paper, and when called to account for his action had not the manliness to avow the act, but evaded responsibility. In fact, there was only one man among the signers who had the moral courage to defend his action. He not only did that, but refused to apologize, and was expelled from the Assembly.

Pinhorne took his seat on the bench in November, 1704. It would have been impossible for him, if he had followed the lead of his son-in law, to have escaped the censure which attached to Mompesson. He undoubtedly concurred with the Chief Justice in all his rulings relative to the indictments for seditious words spoken of the Governor. He became quite unpopular, and received very severe rebukes from the Assembly. Among other charges made against him was the very serious one that he had refused the writ of habeas corpus to Thomas Gordon, Speaker of the House of Assembly, and allowed him to remain in custody until the prisoner had obtained the services of the son of the judge, who was an attorney.

It must not be forgotten, however, that the Assembly, from which body came the fiercest denunciation of the two judges, were factious, too often inconsistent with themselves and not observant of the rights of those in authority. Lewis Morris, who was the idol of the Assembly while these squabbles between the Governor and the popular branch of the Legislature were in progress, when he afterward became Gov-

ernor, was denounced in as unmeasured terms as ever Lord Cornbury was.

Pinhorne remained in commission during the whole of Cornbury's administration, and continued after his removal to be a member of the Council. The Assembly, however, insisted that he should be removed from office, and was successful at last, but not until Robert Hunter became Governor.

Pinhorne at one time was President of the Council, and by virtue of his holding that position, was Governor of the colony for a short time, in the interregnum between the removal of Ingoldsby and the appointment of Robert Hunter. He died probably in 1720. His will is dated May 10, 1719, and was probated April 12, 1720. He was a man of ample means, and was enabled to draw around him at "Pinhorne Mount" a goodly company of cultured and educated men. He seems to have retired to private life after his dismissal from the Council.

The successor of Mompesson was Thomas Gordon, formerly Speaker of the Assembly. His term of office as Chief Justice was very short, but prior to that he had filled a very large space in the political history of the colony. He was a Scotchman, and claimed to be connected with the family of the Duke of Gordon, but becoming complicated with some of the political troubles of Scotland, came to New Jersey in 1684, bringing his family and servants with him. He became a large landed proprietor near Scotch Plains, which place was undoubtedly named from the great number of Scotch colonists who settled in that vicinity, and locating there soon made himself felt as a man of ability and force. He held several offices under the Proprietors and the Colonial Government. He was Deputy Secretary for the Proprietors, Clerk of the Court of Common Right, Register of the Court of Chancery, Judge of Probate, and Collector of Customs at Amboy. He was also, late in the seventeenth century, Attorney General of the State, and subsequently became Speaker of the Assembly. He adopted the popular side in the quarrels between Cornbury and the representatives of the people, and was firm and outspoken in the opposition to the Governor, but was not violent either in speech or in conduct. On the resignation of Mompesson, Governor Lovelace, who succeeded Lord Cornbury, appointed Gordon Chief Justice. His appointment was dated April 28, 1709. He took his seat on the bench in the May term of that year. He does not seem to have been educated as a lawyer, although licensed as an attorney, and soon became conscious of his inability to perform

the duties of the office. He resigned in a very few months after his appointment, and then became Receiver General and Treasurer of the Province. He died in 1722, and was buried at Amboy.

After the resignation of Gordon, Roger Mompesson again appears. He was reappointed Chief Justice by Lieutenant Governor Ingoldsby, who became acting Governor upon the death of Lord Lovelace.

Robert Hunter arrived in the colony in 1710 with a commission as its Governor; and Mompesson again withdrew, David Jamison being appointed to the position thus vacated. His name would indicate that he was a Scotchman. He had been a lawyer of some eminence in New York, and had been counsel for McKernie, a clergyman of the Presbyterian Church who had been indicted, in 1707, for preaching without a license at Newtown, Long Island. He was tried and acquitted, but was detained in prison, notwithstanding the acquittal, until he paid the cost of the prosecution. For his defence of Mr. McKernie, Gordon acquired great favor with the citizens of New York, but he did not escape the popular fury in New Jersey. Governor Lovelace's administration was one which had won almost universal favor; but at one time there was a serious break of the excellent relations which had existed between the Governor and the Assembly. The Chief Justice became involved in the quarrel, and an indictment was found against him at the Quarter Sessions in the county of Burlington, and this was the ground of the indictment. At the November term of the court in 1715, one of the grand jurors refused to take the oath in the ordinary form, alleging that he was a Quaker, and that by an act of the Legislature passed several years prior to that time, he was entitled to be affirmed and not sworn, as he had conscientious scruples against taking an oath. The passage of the act was admitted, but it was contended that it had been repealed by a statute of Parliament. This was the position assumed by the partisans of Lord Cornbury. The Chief Justice overruled the objection, and ordered that the juror should be affirmed. But the Clerk was contumacious and refused to obey the order of the Chief Justice. Here was a decided contempt of court, and that of the most flagrant character,—a refusal of the sworn officer of the law to perform a known duty. Of course, no grand jury could be impanneled at that term. The Chief Justice had but one course to pursue: he was necessarily obliged to sustain the dignity of the court; he held the obstinate Clerk to be in contempt and fined him. The punishment, under the circumstances, was very light. Yet, at the next term of the Court of

Quarter Sessions the Chief Justice was indicted for fining the Clerk. Jamison behaved in the most dignified manner. Governor Hunter felt constrained to interfere, and rallied in defence of the Chief Justice. He published an address to the citizens of the colony relative to the subject, and in a calm and dispassionate manner reviewed the whole case. The indictment was quashed on motion of the Attorney General, after having been removed into the Supreme Court. The order setting aside the indictment may still be read in the minutes of the court. It states that it is made because the proceeding is against the Chief Justice of the colony for doing his duty in the execution of his office. Jeremiah Basse, a licensed attorney, one of the most prominent men in the province, was most instrumental in procuring the indictment to be found against Jamison. Promptly, so soon as the indictment was quashed, an order of court was entered disbarring Basse.

The rest of the term of Jamison as Chief Justice was uneventful. Harmony was restored between the contending parties and no disturbing cause ever interfered to prevent the peace that reigned while Hunter continued in the office of Governor. Jamison appears to have been a great student of the Bible. He delighted to quote largely from the sacred records, especially in his charges to grand juries. He was a believer in witchcraft, and thought heretics ought to be punished. But no persecution for either of these offences, as they were called by Chief Justice Jamison, ever disgraced the jurisprudence of New Jersey. He was continued in office by Governor Burnet, who succeeded Hunter in 1719. Jamison resided in New York during all the time he was Chief Justice. By this arrangement suitors and their counsel were very much embarrassed, and at the earnest solicitation of the Assembly, Governor Burnet removed him and appointed William Trent in his place.

Trent was not a lawyer by profession; but he had been a judge in Pennsylvania and had acquired a most enviable reputation. He was a Scotchman, had been a successful merchant, and was a man of excellent judgment, of good sound common sense, with not a breath of suspicion on his reputation. At the time of his appointment he was Speaker of the Assembly. His house, in which he had resided in Philadelphia, was standing a few years ago. At the time of the meeting of the Continental Congress, during the Revolution, it was used as a boarding house, and John Adams and several other members of Congress boarded there. Trent, in 1714, bought several hundred acres

of the ground upon which Trenton, the capital of New Jersey, now stands. Seven years afterwards, in 1721, he removed to this property, then called Littleworth, but afterward known as Trent's Town, and subsequently changed to Trenton. It was, however, nothing but a hamlet, there being only two or three houses there at the death of Trent, which occurred in 1724, and only nine months after he became Chief Justice. His term of office was so short that very little can be said of the performance of its duties. He was stricken down with apoplexy, and died on Christmas day. His death was thought to be a public calamity and was universally lamented. The courts of Hunterdon County, in which Trenton was then situate, had been held at that place. Trent, before his death, donated to that county the lot on which the first Court House was built.

Trent was succeeded by Robert Lettice Hooper, who was an appointee of Governor Burnet, and who took the oath of office on the 30th day of March, 1725. He was a member of the Assembly when he was appointed. There is a very great scarcity of material about this man's history, either private or official. He held the office about three years, and seems to have been universally respected.

Thomas Farmar, in 1728, succeeded Hooper. He came to New Jersey in 1711. He soon began to take a great interest in public affairs, was for many years a member of the Assembly from Middlesex, and while such member was appointed second judge of the Supreme Court. He continued to hold his seat in the Legislature even after he ascended the bench. This did not seem to be incompatible with propriety in those days, as there is more than one instance where the same person held those two offices at the same time. Farmar was one of these persons. But his continuance in the office of Chief Justice was very short, as he held it only from March, 1728, until November term, 1729, when Hooper resumed the position. Farmar became insane, and was at times so violent that his friends were obliged to confine him closely. He continued in this condition of mind for several years.

Lewis Morris was one of the most noted characters in the colonial history of New Jersey. He was at one time appointed second judge of the Supreme Court; but no record can be found that he ever took his seat on the bench. It is believed that he never did, as very soon after his appointment he was made Chief Justice of New York, and removed to that colony. He seems to have been a restless man of great ability,

and always assumed the popular side in the quarrels between Lord Cornbury and his antagonists in New Jersey. He was a member of the Council which was appointed by Queen Anne for her cousin, when he was made Governor. But Cornbury could not consent that so refractory a spirit should be a member of the board which had, in a measure, a sort of control over his movements. So Morris was expelled, and Roger Mompesson took his place. In the subsequent quarrels between the royal governor and the Assembly, Morris took a very prominent part. He was the author of the remonstrance to Queen Anne against Cornbury, and it can well be imagined that the expelled member of the Council did not spare the Governor. After his expulsion, he was returned a member of the Assembly, and had ample opportunity of revenging himself. The indictment against Cornbury, which he presented to the Queen, was a document of tremendous power and did not spare the Governor, nor did it fail to expose his meanness and entire unfitness for the position.

Daniel Coxe was an associate justice who sat on the bench with Hooper. He was appointed in 1734, and was the son of Dr. Daniel Coxe, whose connection with West Jersey and some others of the American colonies was such as to make him one of the most remarkable men of his time. He was one of the Proprietors of West Jersey, and, at one time, its governor. He was also one of Lord Cornbury's Council, and Speaker of the Assembly. A hundred years before his son became associate justice, a patent had been granted by Charles I to Sir Robert Heath, of a very large extent of territory then called Carolina. A little more than thirty years after it was granted, the patent was declared to be invalid and a few years after that, it was assigned to Dr. Coxe, who anticipated large returns from his investment. He submitted his claims under the patent to the King, who referred them to the Attorney General. After a full examination, the former decision as to the invalidity of the patent was reversed, and it was declared valid. After his death, the associate justice revived his father's claim and made several unsuccessful efforts to induce settlers to immigrate into the country covered by his patent. To accomplish this, he wrote and circulated a pamphlet which deserves more notice than has generally been awarded to it. It contained a description of the province granted to Heath, which exhibits the lamentable ignorance of the men of that time as to the geography of the continent. In his pamphlet, Coxe claimed that there was an easy communication be-

tween the Mississippi River and the South Sea which lay between America and China, by means of several large rivers and lakes, "with the exception of about half a day's land carriage." But the pamphlet is more remarkable for the proposal it made of a plan of union between the American colonies for mutual protection and defence. This plan is the same afterward proposed by Benjamin Franklin, called the "Albany plan of Union," and for which Franklin received so much credit. Franklin needs no borrowed glory and his memory can afford to allow the credit to be given to the real author of this admirable scheme. The plan was this: That all the North American colonies should have a common union, presided over by an officer to be called a Lieutenant or Supreme Governor; each colony was to be represented in a general council composed of two delegates chosen by the Legislatures of the respective colonies. This general council was to be convened, whenever necessary, by the Supreme Governor, and to it was to be confided all measures providing for mutual defence and for offensive operations against the common enemy, such as the quotas of men and money needful to be raised. The acts and proceedings of this general council were to be subject to the veto of the Governor, but he could take no aggressive action without the consent of the Council. In 1754, Franklin proposed his plan, which was almost identical with the one recommended by Coxe in his pamphlet. The justice of history demands that this New Jersey Judge should receive his due meed of praise too long witheld.

Daniel Coxe was associate justice until the time of his death, which occurred at Trenton in 1739. He was implicated, in the early part of his life, with Cornbury, in his quarrels with the Assembly, and after Cornbury's time, his conduct in the strife with Governor Hunter was not much to his credit; but his later career was such that he secured the confidence and esteem of his fellow citizens. His judicial duties were performed with ability and honor to himself.

Robert Hunter Morris succeeded Robert Lettice Hooper as Chief Justice. He was the son of Lewis Morris, of whom mention has already been made, and inherited some of the peculiar characteristics of his eccentric father, and much of his ability. He was in office twenty-six years, but did not burden himself much with the cares of his position. So far as accomplishments were concerned, he was perhaps as well equipped as any one of the Chief Justices who sat on the bench prior to the Revolution. He had been carefully educated, and owed

very much to the influence of a most excellent and careful mother, and enjoyed all the advantages which could be obtained at his time in the very best educational institutions of the country. He had an ample fortune, was of a very fascinating address, possessed a handsome face and person, was a persistent disputant, and one of the best talkers in the province. At first, he paid enough attention to his position to introduce some reform, to reduce pleadings to stricter rules, and to insist upon more regularity and precision in the forms of procedure. But he soon wearied, apparently, of the irksome confinement which an honest performance of his duties involved. He was a young man when he assumed, in 1738, the position of Chief Justice. In 1749, he visited England with a view, it is supposed, of securing the nomination to some office in the colonies. About that time a plan was contemplated of uniting the two provinces of New York and New Jersey, and placing in the hands of one man the office of chief magistrate. The nominal object which sent him to the mother country was to protest, at the request of the Council of New Jersey, against the proposed plan. Perhaps injustice is done him in the charge that he was covetous of political preferment. But, he was an ambitious man and tarried long in England. He certainly was a candidate for the position of Lieutenant Governor of New York. He returned after five years' absence, with the commission of Governor of Pennsylvania in his possession, so that he was not only Chief Justice of New Jersey, but, also, chief magistrate of another colony. He appreciated the incongruity of his holding the two offices at the same time and tendered his resignation of the position of Chief Justice, which was not accepted,—for what reason, does not sufficiently appear. He did not, however, hold the office of Governor for any great length of time. He received that appointment in 1754, resigned it in 1756, and returned to his duties as Chief Justice. In 1757, he again visited England. During his absence a strange state of affairs was originated. Morris held his office, according to his commission, during good behavior; but while he was absent in England, William Aynsley was appointed Chief Justice. He held the position, however, only a few months. He took his seat on the bench, 1758, but died soon after, probably in the same year. Shortly after his death, Nathaniel Jones received the appointment to the apparently vacant office. He arrived from England in November, 1759, and went at once to Amboy, where he was formally commissioned by Governor Bernard. From there he went to Elizabeth Town, where he was received with great honor,



JONATHAN DIXON.

Speeches were made by the Mayor and the new-comer, and general congratulations were exchanged. The next term of the court was held in March, 1759. Mr. Jones appeared at that time and requested that he might have the oath of office administered to him. But, unfortunately for him and his aspirations, there was another Chief Justice, in the shape of Robert Hunter Morris sitting in the place which Mr. Jones proposed to occupy. This was a dilemma which Mr. Jones found to be exceedingly awkward. However, he had his commission read, and in his argument referred to some minutes of the court when Chief Justice Aynsley was present and had taken part in the proceedings. This was certainly quite embarrassing for Morris, who had possession. But he was equal to the occasion; he produced his commission, dated in 1738, by which he was undoubtedly vested with the office. Morris referred to the condition upon which he was to hold the position; he was to have it during good behavior, and he had not been removed. Chief Justice Morris took no part in the debate which ensued, except to say that David Ogden and Charles Read would appear for him. Associate Nevill decided the case, declaring that the court could not recognize Mr. Jones as Chief Justice; that Robert Hunter Morris had the first right to the office, and that Mr. Jones must seek his remedy in another tribunal and by a due course of law. The defeated aspirant for office abandoned the controversy, and that was the last that was ever heard of the contention which at one time bid fair to become a *cause célèbre*. Mr. Morris held the office without further molestation until his death, which occurred under very sad circumstances. In 1764, he made a visit to a relative in Shrewsbury and in the evening attended a dance in the village; while dancing with his relative, he dropped to the floor and expired instantly, without a struggle.

Morris had two associates while he was on the bench; one was Richard Saltar, of whom very little can be said. When Morris attempted to resign his office of Chief Justice, upon being appointed Governor of Pennsylvania, he recommended Mr. Saltar as his successor. Samuel Nevill was then also on the bench; but, although he appears to have been much more fit than Saltar, Morris passed him by with the remark that he did not think Samuel Nevill would do; "his circumstances are so low, and he is from that reason unfit to be trusted in the principal seat of justice."

Samuel Nevill was born in England and had received a liberal education. At one time, before he came to America, he had been editor of

the "Morning Post." He had a sister, the widow of Peter Sonmans, who died in New Jersey, leaving quite an estate. Being her elder brother, Samuel Nevill inherited this estate and came to the province in 1736, to claim the property. He resided at Amboy, where his character and talents were soon recognized and respected and became a member of the Assembly, at one time being its Speaker. He espoused the cause of the Proprietors in their quarrel with the people, and led the Assembly in its long controversy with the Governor. Perhaps Chief Justice Morris was avenging his father's fancied wrongs when he wrote so disparagingly of Nevill.

Nevill was made second judge of the Supreme Court in 1748, and continued in office for sixteen years. He compiled two volumes of the statutes of the colony, which were published by authority of the Legislature. These books contained all the Acts of the Assembly from 1702 to 1752, and are almost worth their weight in gold, being greatly in demand by the Bar of New Jersey.

Judge Nevill was a man of considerable literary merit. He became the editor of the "New American Magazine," the initial number of which appeared in January, 1758. It was the first periodical in New Jersey, and the second magazine of the kind ever printed in America. Nevill wrote for it under the name of "Sylvanus Americanus." The magazine was discontinued, for want of support, in 1760. It deserved patronage, however, and was really a very creditable affair.

Judge Nevill died soon after the death of Robert Hunter Morris, and left an unsullied name.

Charles Read succeeded Morris as Chief Justice. His appointment did not receive universal approbation. Some members of the bar openly denounced it. He acted as Chief Justice only a few months, and gave way to Frederick Smyth, who was the last Chief Justice of the colony of New Jersey before the Revolution. Read, after retiring from his position at the head of the court, became second judge, which place he had previously held.

Mr. Smyth was appointed in 1764, and continued in office until 1776. During his time the trouble between the colonies and the mother country rapidly culminated. At the outset of his term of office, the Stamp Act was passed and it was charged that he had been a candidate for the position of stamp distributor. As has been stated, he exonerated himself from this charge and acting on the advice of the lawyers, assembled at his call,—that he was not obliged to aid in the

delivery of the stamps,—the result was that the court was closed. In 1772, the British schooner "Gaspée" was burned by Rhode Island Whigs. Chief Justice Smyth was appointed, in connection with the Governor of Rhode Island and with the Chief Justices of New York and of Massachusetts and the Judge of Admiralty, a committee to examine into the affair. The examination was fruitless of any result, but the appointment of this commission gave authority to the first Continental Congress to issue an address to the people, in which it was charged that "a court had been established at Rhode Island for the purpose of taking colonists to England to be tried." The lines began now to be sharply drawn between the friends of the independence of the colonies and the supporters of the mother country. Chief Justice Smyth was a decided loyalist and never refrained from fairly and openly defining his position. But he was honest in his opposition to what he deemed treasonable attempts against the regularly constituted authorities. His charge to a grand jury in Essex County afforded an opportunity to the members of that body to make some very decided and sharp replies to his strictures. It was Chief Justice Smyth who brought the matter of the "*New Jersey* Tea Party," before referred to, to the attention of the grand jury of Cumberland County, at a succeeding session of the court, and who strongly urged the finding of an indictment of the leaders, some of whom were known to be among the most respectable citizens of Cumberland County; the grand jury, however, refused to listen and ignored the bills. After the War of the Revolution was actually begun, Chief Justice Smyth removed to Philadelphia, where he died. His associate justices were David Ogden and Richard Stockton, two of the most distinguished men who ever practiced law in New Jersey.

It is a fact which has perhaps escaped the attention of historians that some of the strongest and ablest men in the profession of the law became devoted loyalists. David Ogden was one of these, and he embraced the side of the King of England from pure convictions of duty, for he was an honest man, and his decisions for his own individual guidance were based upon what he deemed just and right.

He was of a distinguished family which came to New England at an early date and removed from there to New Jersey. His father was Josiah Ogden, who was for many years a member of the Legislature from Essex County. His brother was Jacob Ogden, a physician who attained great eminence in his profession. David Ogden was born at Newark, very early in the eighteenth century. He was educated at

Yale, where he was matriculated in 1728. He then read law in New York, and after completing his studies began practice in Newark. He was not a dazzling nor a brilliant man, and could not be called a genius, but he had better qualifications than those generally accompanying genius, to equip him for a lawyer's life. He was clear-headed, of uncommon good sense, of unfailing judgment, and added to these excellent aids to success in the legal profession, the most untiring industry, unsurpassed by any of his contemporaries at the bar. Very soon, he was the acknowledged leader of the profession in New Jersey. He received an appointment to the bench, as associate justice, in 1772. No man of his time was better equipped than he for the performance of the duties of this office. His inexhaustible stores of learning, his clear perception and honesty of purpose, were qualifications which admirably fitted him for the office of judge. But he could not have had a fair opportunity of displaying his capability for the position. He was appointed in troublous times, at a period when it must have been apparent to the most casual observer that the issue between the colonies and England must soon be submitted to the arbitrament of the sword. When the lawyers refused to purchase stamps, he united with them in their action; but he was a loyalist and an honest one. When hostilities actually began and it was not safe for him longer to remain in the place of his birth, he removed to New York and resided there during the war. His convictions of duty drove him to decided action and he devoted all the energies of his nature to the success of the cause he honestly believed deserved to be successful and never despaired until the last moment of its final triumph. He busied himself most industriously with his pen. Among his productions was one which provided for a plan for the government of the colonies after their submission, which, as he expressed it, "was certain and soon to happen, if proper measures were not neglected." His plan was quite complex, but it is somewhat amusing to notice that it embraced perfect self government by the colonies through a parliament and officers chosen by the colonists, with power of taxation vested only in the Continental Parliament. Among other propositions made by Mr. Ogden was the creation of Barons from among the freeholders and inhabitants of the colonies, who were to compose a house of Peers for the American Parliament. Perhaps David Ogden might have had in his mind one inhabitant of the provinces who, he thought, would make an excellent member of the proposed House of Lords and who ought to be made a Baron.

After the independence of the Republic was acknowledged by the British government, Mr. Ogden went to England and became agent for the loyalists in the prosecution of their claims for compensation for losses they had sustained by their adherence to the King. He returned from England, in 1790, and resided in Long Island until his death, which occurred in 1800.

The other associate justice with Chief Justice Smyth was Richard Stockton, than whom no one of his time is more revered in New Jersey. He came of most excellent stock, whose representatives are now to be found in New Jersey, with just claims upon the respect of their fellow citizens. His forefathers came to New Jersey in the seventeenth century and were large landholders near Princeton, the seat of the College of New Jersey. His father was John Stockton, who, at one time, had held a high judicial position in Somerset County, and was a man of mark in his day. Richard Stockton was educated in his native village, under the very best teachers which the colony afforded. He graduated at the College of New Jersey, in 1748, and then read law with David Ogden, in Newark. He came to the bar in 1754, and then began to practice his profession at Princeton. It was not long before his power was felt and he soon led the bar in his part of the State. For twelve years he was fully engaged in a very large practice, when he visited England, where he was received with the most gratifying consideration. He remained abroad for fifteen months, and while in England was frequently consulted by members of the government and by other persons who were interested in the affairs of the colonies.

The act which most redounded to his credit and for which he should receive the gratitude of all Jerseymen was that which procured the settlement of the Rev. Dr. Witherspoon as President of the College of New Jersey. The Trustees of that institution had unanimously elected the Scotch divine to that position; and the letter to him announcing his appointment was transmitted to Mr. Stockton while he was in England, with a request that he would make a personal application to Dr. Witherspoon. He made a journey to Scotland for the express purpose, and it was due entirely to his exertions that the office was accepted. He was obliged not only to overcome the Doctor's natural reluctance to leave Scotland for an untried experiment, but also to remove the very decided repugnance which Mrs. Witherspoon entertained toward the removal. He was at last successful, after repeated efforts, and the College of New Jersey gained a scholar and divine and the colonies a

devoted friend who proved a tower of strength in the struggle with England. Mr. Stockton returned in September, 1767, was soon elected a member of the Legislature and, in 1774, was raised to the bench, taking his seat beside his old preceptor, David Ogden.

There was very little opportunity for either of these distinguished men to display their peculiar fitness for the high judicial positions they occupied. The career of Ogden has already been sketched, though very imperfectly. Stockton did not follow the lead of his former teacher, but espoused the popular cause and was as fearless and determined in his support of it as David Ogden was in his adherence to the king. In 1776, Mr. Stockton was elected a member of the Continental Congress, sitting at Philadelphia. Dr. Witherspoon was one of his colleagues, and they both signed the Declaration of Independence. That act which seems so glorious to the citizen of to-day, was then fraught with serious consequences. Mr. Stockton took part in the debates in Congress relating to the Declaration, before it was signed, and made an able speech in favor of the measure. But his prominence in this transaction rendered him liable to attack from the enemy. He had a most delightful home which lay directly in the path of the British army as it marched through New Jersey flushed with the victories of Long Island. His property was desolated and his house and premises were made the scene of rioting and willful, wanton destruction. He was driven from his estate and compelled to seek refuge in Monmouth County. The enemy followed him to this retreat, seized him from his bed, at night, inflicted upon him every species of insult and injury and, with a brutality which would have disgraced even barbarians, in a most inclement season, carried him to New York, where he was made the inmate of a jail, herded with criminals and subjected to such severe, unprecedented treatment, that Congress at last, interfered and threatened retaliation. He was, at length, released, but was so enfeebled in health by his sufferings and privations, that he soon succumbed to the result of this treatment and died in the early part of the year 1781, at the age of fifty-one. He was, for many years, one of the trustees of his Alma Mater, and one of the most eloquent of the divines of that institution, its vice-president, pronounced his funeral sermon; his estimate of the character of Mr. Stockton was given in the most touching and sympathetic utterances and with an eloquence and fervor heightened by the truthfulness which adorned his address. "At the bar," said this eulogist, "he practiced for many years with unrivalled reputa-

tion and success. In council, he was wise and firm, but always prudent and moderate. The office of Judge of the province was never filled with more integrity and learning than it was by him for several years before the Revolution. As a man of letters he possessed a superior genius, highly cultivated by long and assiduous application. His researches into the principles of morals and religion were deep and accurate and his knowledge of the laws of his country, extensive and profound. He was well acquainted with all the branches of polite learning, but he was particularly admired for a flowing and persuasive eloquence by which he long governed in the courts of justice."

He was the last associate justice in New Jersey prior to the Revolution, and of all those who adorned the bench before that event, he was undoubtedly the best.

At the Provincial Congress of New Jersey which met on the 10th of June, 1776, at Burlington, the Rev. Jacob Green was chairman of the committee charged with the duty of preparing a constitution. He was a man of more than ordinary intelligence and ability, was a Presbyterian minister, one of the first of his denomination who ever settled in Morris County, and preached at Hanover at the time of his election to Congress. He was not only the pastor of his people, but he was their counsellor and adviser; drew their wills, their deeds and their contracts; arbitrated their disputes and settled their estates. He was a practical man of business, as well as an earnest and devout divine. His various avocations were wittily summed up in the direction of a letter once sent him:—

"To the Rev. Jacob Green, Preacher,
And the Rev. Jacob Green, Teacher;
To the Rev. Jacob Green, Doctor,
And the Rev. Jacob Green, Proctor;
To the Rev. Jacob Green, Miller.
And the Rev. Jacob Green, Distiller."

John Cleves Symmes, afterward one of the associate justices of the Supreme Court, and another lawyer, were also members of the committee; but, it is the universal tradition that the chairman was the framer of the Constitution. By its terms the Justices of the Supreme Court were elected by the Council, as the higher body of the Legislature was then called, and the House of Assembly, in joint meeting, and could hold office for seven years.

There was little business done by the Supreme Court, or by any

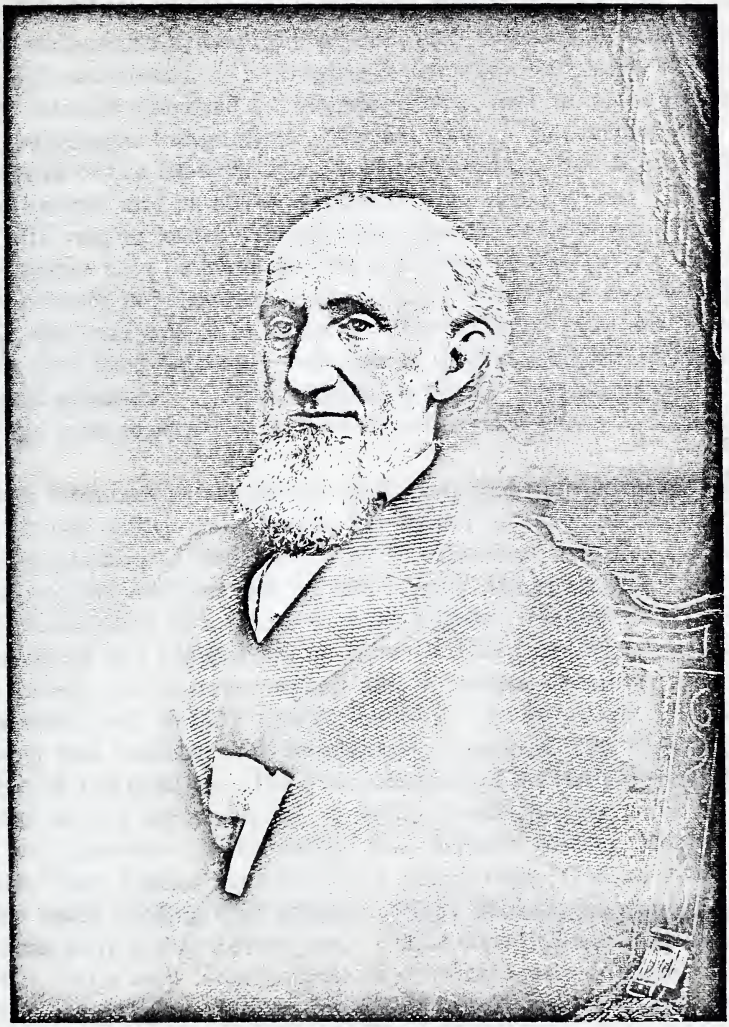
other court of New Jersey, while the war continued, except in the punishment of traitors and other criminals, confiscating estates and providing for the confinement of suspected rebels; in fact, regular terms could not be and were not always held. It became necessary, in consequence of the many irregularities in suspending terms and in other proceedings, for the Legislature to pass a statute legalizing the acts of the Supreme Court, reviving writs and other processes and giving efficiency to the tribunal as if it had regularly met.

The last term of the court held by the justices appointed by the colonial authorities was in May, 1776, when Frederick Smyth was Chief Justice and David Ogden and Richard Stockton were associate justices. The Chief Justice and Justice Ogden were the only judges then present.

The first session under the new Constitution was held in November, 1776, only one judge—Samuel Tucker—being present. He was one of the Associate Justices who had been elected in the month of September preceding. The office of Chief Justice was tendered to Richard Stockton immediately upon the adoption of the new Constitution, and he would have been unanimously elected had he not refused to accept the position.

When Mr. Stockton rejected the proffered office, it was tendered to John De Hart, a leading lawyer in Newark, who accepted in writing, but for some reason which cannot now be ascertained, did not serve. At the same time that he was elected, Francis Hopkinson was appointed an Associate Justice; but he was a member of the Continental Congress and declined to serve. This left Samuel Tucker the only judge of the Supreme Court.

Mr. Tucker was not a lawyer; but he had been much in public life and had held some most important offices. He had been Sheriff of Hunterdon County, a member of the Legislature and was President of the Provincial Congress when the Constitution was adopted. At the beginning of the war he was treasurer of the province and had in his possession a large amount of the paper currency issued by the colony. In February, he was called to an account and then asserted that the British had captured him and stolen the money during the preceding December, when Washington was on the west bank of the Delaware, resting after the terrible struggle succeeding the Long Island campaign. Mr. Tucker had obtained a protection from Col. Rall, the German officer in command of the British forces at Trenton. During



Amzi Dodd

the preceding summer, Howe, the English General, had issued a proclamation inviting the colonists to seek protection by submission to him as the representative of the mother country. Tucker had availed himself of this invitation and had sought pardon, and then, as he alleged, was robbed. His submission to the English leader was a very weak measure; his fellow citizens clamored for his resignation, and he was obliged to yield to the popular indignation. He lost favor; the accuracy of his statements as to the robbery was not only doubted, but openly questioned as untrue, and he never recovered from the disgrace. He died in 1789, still resting under a cloud which has never been removed.

Two excuses may be urged for his disloyalty to the patriot cause—one the apparent hopelessness of success, on the part of the colonists; the other, the influence of his wife, an English lady, over his actions, which, it was then believed, led him to prove recreant to his prior actions and promises. Neither excuse, however, was sufficient in the eyes of his contemporaries, as he ever afterward lived a dishonored man.

There is no report of any of his decisions, and no estimate can be formed of his ability as a judge; his career in that position was too short to enable him to demonstrate his capabilities. He was, however, a man of decided intellect and, in less stormy times, might have left an enviable memory as a member of the highest tribunal of his State.

No record of any resignation by John De Hart, as Chief Justice, can now be found; but he never served and it became necessary to fill the vacancy which had already existed too long. In February, 1777, Robert Morris was elected and immediately assumed the discharge of the duties of the position. He was a member of a family distinguished in colonial history for a century, in many directions, not only in New Jersey, but elsewhere. His father was Robert Hunter Morris, who had been Chief Justice for twenty six years, from 1738 to 1764, and had died while holding that office. Robert Morris was appointed at the darkest hour of the Revolution. Little civil business was done by the courts, but a very large volume of criminal cases engaged the attention of the judges. Terms were held regularly for about a year; grand juries were summoned and sworn and criminal business was transacted. The Courts of Oyer and Terminer were held by one or more justices of the Supreme Court, assisted by county judges who were not lawyers. Venires for grand and petit juries were issued to the sheriffs of the several counties. Under the colonial government

commissions for holding the Oyer and Terminer were sent by the Governor and his Council to the justices, as exigencies required. In the Constitution of 1776, no express authority was given to any one to issue these commissions; but an act of the Legislature was passed very soon after, which gave full power to the Governor and Council to convene the court; and, at last, after some persistence, despite the grave doubts of many excellent lawyers, the practice was fully recognized and never afterward questioned. Very soon, too, the word "Colony" was dropped from all commissions and laws and the word "State" substituted. The commissions for holding courts of Oyer and Terminer were invariably issued until 1794, when they were abolished and those courts were regularly convened in the several counties.

Chief Justice Morris was very busy in performing the duties of his office. There were no public conveyances then, and he was obliged to use his own horse in passing from county to county. A letter written by him to Governor Livingston and dated June 14, 1777, is particularly interesting, as it gives evidence of the difficulties attending the travel from one court to another; of the ignorance of the officers of the proper manner of performing their duties; of the doubts of the Chief Justice whether the court had met or could properly meet the obligation of its office in the very trying circumstances which surrounded it, and their limited knowledge of the law involved in the cases of treason submitted to them.

Robert Morris held his position for less than two years. In 1779, he resigned and retired to private life, until 1790, when, on the death of Judge Brearley, General Washington made him Judge of the United States District Court for New Jersey, which position he held until his death, in 1815. During the last year of his life he was in infirm health; and often his court, in consequence, would not be held at the regular terms. This occasioned very little inconvenience, as the business was very small and rarely required the attendance of the judge more than a day at each term.

The Associates—or as they were then called, the second and third Justices—with Chief Justices Morris and Brearley, were Isaac Smith and John Cleves Symmes. Of Isaac Smith very little can be said. He was not a lawyer; he was educated at Princeton College, where he graduated in 1758, when only eighteen years old. He then studied medicine and became a practicing physician. During the troubles with England, and as early as 1776, he strongly identified himself with

the cause of the colonies and commanded a regiment in the Continental army. He soon became distinguished as an efficient officer and ranked high as a patriot. His talents were of a very high order and he was especially noted for his wisdom and sagacity. In February, 1777, the joint meeting of the Legislature raised him to the office of second justice, and he assumed the duties of the position at once. Although he had no legal education and had never practiced law, his native ability and his untiring industry soon made him a good lawyer and he became able to decide the cases submitted to him, with judgment and accuracy. He was thrice re-elected and held the position longer than any other associate justice. In 1803, at the expiration of his fourth term, the political party opposed to him came into power and he failed to obtain a reappointment. He then retired to private life, made his home at Trenton and became the president of the Trenton Banking Company, which position he retained until his death in 1807.

John Cleves Symmes was born at Riverhead in New York, in 1742, and received a good, sound education, but never graduated at any college. In early life he was a teacher and a surveyor, but subsequently studied law, was licensed and began the practice of his profession in his native State. At the breaking out of the Revolution, he became an intense patriot, was a member of the Provincial Congress of New Jersey, in 1776, and, in September of that year, was appointed one of two commissioners to visit the troops of the State, which were serving in New York, to learn their condition "and their disposition farther to engage in the service in the new establishment." He subsequently entered the army as Colonel of the Third Battalion from Sussex County, was present at several severe battles and aided at that of Saratoga. At the beginning of the war he was a resident of Newton, in Sussex County, New Jersey. In 1776, he was elected a member of the Provincial Congress and was put upon the Committee which framed the Constitution. In February, 1777, he was appointed third justice of the Supreme Court and retained the office until 1788. In 1784, he was sent as a delegate from New Jersey to the Continental Congress at Philadelphia, still retaining his office as third Justice. In 1788, he was appointed a judge of the Federal Court in the Northwest Territory, removed to Ohio, and, in company with some other Jerseymen, attempted to purchase from the Government a tract of about one million acres of land. In this, however, he did not succeed; but, afterward,

in connection with his Jersey friends, did buy 250,000 acres between the two Miamis. This land included the present sites of the two cities of Cincinnati and Dayton. Judge Symmes had formed a plan of founding a great city at the north bend of the Ohio River, where he, himself, and his illustrious son-in-law, President William Henry Harrison, both lived, and which he purposed to call after his name. A romance is connected with the selection of the site of Cincinnati. The Commander of the United States force is said to have fallen in love with a young lady who resided where that city is now situated; and, in spite of the well laid plans of Judge Symmes, the great city of Ohio obtained its present location. He married, for his first wife, a daughter of a Mr. Tuthill. Anne Symmes, born of this marriage, became the wife of General William Henry Harrison; and thus Judge Symmes was the ancestor of Benjamin Harrison, afterwards President of the United States. Just before he removed to Ohio he married Miss Livingston, the daughter of Governor Livingston, of New Jersey, for his second wife. The author of the singular theory that the earth is a hollow ball, inhabited in its interior, was his son, who bore the same name.

Judge Symmes presided at the trial of James Morgan, a continental soldier, indicted for the murder of the Rev. James Caldwell, the "Fighting Parson" from New Jersey. Grave doubts were entertained as to the guilt of Morgan, but he was convicted and hung. The trial was conducted very fairly and with great solemnity.

Judge Symmes died in 1814, at Cincinnati, after a very active, busy life and left behind him a reputation of having been a public spirited man and one of more than ordinary ability. His Western biographer, if he have one, would claim, undoubtedly, as his chief merit, what is recorded on his tombstone, "that he made the first settlement between the Miami Rivers." There is no report of any of his decisions. His ability as a judge and his merit as a lawyer are to be inferred from the fact that after serving as an Associate Justice of the Supreme Court of New Jersey, he had acquired such a reputation that the President of the United States selected him as a Judge of the Federal Court in the Northwest Territory.

Morris was succeeded, as Chief Justice, by David Brearley, who at the time of his appointment was a Lieutenant Colonel in General Maxwell's New Jersey Brigade, to which position he had risen from a subordinate office. He was a lawyer and resided in Monmouth County, and was only thirty-four years old when elected Chief Justice. The

appointment was, in a measure, forced upon him, as he preferred to remain in the army, but gave way to the solicitations of the Legislature that he would accept the position. He seems to have been a man of great activity and of more than ordinary intellect. There is no report of his decisions, but he has left a reputation of being a faithful officer, with learning and brains, of great integrity and perfectly reliable. In 1781, the College of New Jersey gave him the honorary degree of A. M. In 1787, while still Chief Justice, he was sent as a delegate from New Jersey to the Convention which framed the Federal Constitution. He took an active part in the deliberations of that body, supported the "*New Jersey plan*" for a constitution, but signed the organic law when it finally passed. He was a member of the convention which met in New Jersey to consider the new Constitution and urged its ratification. In 1788, he was a presidential elector and voted for Washington. He resigned his position as Chief Justice, in 1789, and was succeeded by James Kinsey.

During the term of office of Chief Justice Brearley, questions involving the construction of the Constitution of the United States, then recently adopted, came before his court for discussion and settlement. An opinion had been somewhat extensively held by lawyers that the courts had no power to decide constitutional questions; that the English law should prevail, which never permitted the judges of the courts to determine as to the constitutionality of acts of the Legislature. Chief Justice Brearley grappled bravely with the disputed questions, vigorously contended for the right of the court to pass judgment on such matters and fearlessly decided that the Supreme Court had the right to construe the organic law of the country.

James Kinsey was the son of John Kinsey, a member of the Society of Friends, who emigrated from England in 1716 and settled in New Jersey, where his son James was born, in 1733. The elder Kinsey became Chief Justice of Pennsylvania, which office he held for several years until his death. James Kinsey became a lawyer and soon took a prominent part in the politics of New Jersey. He was a member of the Assembly in 1772 and became the leader of the opposition to Gov. William Franklin, the son of Benjamin Franklin, and the last Tory Governor of New Jersey. In 1774, he was elected a member of the Continental Congress, but resigned from that body in 1755, for reasons which were entirely satisfactory to his constituents. In 1777, the Legislature, by statute, required all attorneys and counselors to take an

oath of allegiance to the new Government. Mr. Kinsey refused to take this oath and was obliged to give up his practice, which was very extensive. It is supposed that he was prevented from complying with the act by reason of his devotion to the principles of the Society of Friends, of which, like his father, he was a member. In 1789, Brearley resigned, was elected Chief Justice and at the expiration of his first term of office, was re-elected, so that he held the position for nearly fourteen years. No suspicion ever attached to him as being disloyal to the cause of the colonies. Governor Livingston, one of the most ardent patriots of Revolutionary times, never doubted him and firmly believed that he was fitted for the performance of the duties of the office of Chief Justice. He was, however, not a man of broad intellect, but was well versed in the principles of law relating to real estate and accurate in legal learning. His successor, Chief Justice Kirkpatrick, who was eminently qualified to judge, paid him a very high compliment, in one of his opinions. The first book of law reports ever published in New Jersey began with his decisions. The reporter, Mr. Richard S. Coxe, was not regularly appointed, but obtained the cases and opinions he published, or the most of them, at second hand, from his father-in-law, William Griffith, who at one time was a judge of the United States Court. Chief Justice Kinsey died in 1803 and was succeeded by Andrew Kirkpatrick, who was then and had been for several years, an Associate Justice.

The Associate Justices with Chief Justice Kinsey were Isaac Smith and John Chetwood. Judge Smith has already been noticed.

John Chetwood was a lawyer of great respectability and had practiced his profession for several years at Elizabeth Town, as it was then called, now known as Elizabeth. He came from a Quaker family whose descendants have been distinguished members of the bar of New Jersey He was on the bench of the Supreme Court for many years and filled his office to the entire satisfaction of the lawyers practicing in his court and with great honor to himself. His family was originally settled at Salem, in the lower part of the State, but subsequently removed to Elizabeth Town, where it became connected with the Episcopal Church. In 1797, Judge Chetwood resigned on account of his ill-health. He died in 1806, at the age of seventy-two.

In 1798, the Legislature, by statute, authorized the election of a third Associate Justice of the Supreme Court. Elisha Boudinot was selected to fill the new office and served for a term of seven years. He was one

of the many illustrious men to whom New Jersey has given birth, and was distinguished not only as a lawyer, as a judge, and as a philanthropist, but as a firm and fast friend of the cause of the colonies and an unswerving patriot. At the very beginning of the troubles with Great Britain, he unhesitatingly espoused the patriot cause, became the Secretary of the Committee of Safety and otherwise, by active service, identified himself with the movement against the royal authority.

He was born in 1742, at the family seat known as Beaverwyck, in Morris County, obtained a good education, studied law and after preparation was licensed as an attorney and then as a counselor. In 1792, he was called to the degree of Sergeant-at-law,—a title now obsolete, but then, very much desired by lawyers in New Jersey. He pursued the practice of his profession in Newark. His undoubted ability as a lawyer and his high character soon procured for him the confidence of the community. His office was eagerly sought by young men who desired to study law; and many distinguished men of the profession, not only in New Jersey, but in New York, pursued their studies under his direction. His brother, Elias Boudinot, also a lawyer, was a member of the Continental Congress, at one time its President, and signed the articles of peace between the young Republic and England, in 1783. Elias Boudinot, however, is better remembered as the first President of the Bible Society and as a great friend of the Indians. In 1804, the Legislature repealed the law creating the office of third Associate Justice and Judge Boudinot retired from the bench. He died in 1819.

Andrew Kirkpatrick was one of the most remarkable men of his time. He was the third son of David Kirkpatrick and the grandson of Alexander Kirkpatrick, who were both born in Scotland. The grandfather emigrated to New Jersey in 1736 and became a farmer. At his death, his son David bought the farm from his elder brother and remained upon it until his own decease, in his ninety-first year. He was a strong-minded man, of sterling integrity and a staunch Presbyterian. He purposed to educate the future Chief Justice for the ministry and the young man's early education was directed with a view to the sacred calling. In fact, he spent six months after his graduation from Princeton College in the study of divinity with the Rev. Dr. Kennedy, a clergyman of the Presbyterian church. But, at the end of that time, Andrew became convinced that he was not fitted for a minister's life, determined to become a lawyer, and announced his determina-

tion to his father, who, bitterly disappointed, forbade him his home and withdrew his support. The young man was thus thrust upon the world to win his way by his own resources. But, nothing daunted, he assumed the responsibility and worked upward to his profession. His mother sent him from the home his father denied him, with a single gold piece,—a half "Joe," the savings of many years. The young man never forgot the incident; for, years afterward, when he married, he presented his bride with a gold coin of the same kind and value, with the remark that his own father had been hard hearted to him, but that his mother had removed the sting by her unselfish gift; that, perhaps, he, too, might prove cruel, and then she would need the gold. Mrs. Kirkpatrick never parted with the coin, placed it in a wrapper and indorsed on the paper with her own hand, "a pocket piece presented to me by my husband. Jane K." The half "Joe" has been piously preserved in the family and is now in the possession of his grandson, who bears the same name, in the original covering in which it was placed.

After thus leaving his father's house, he became a tutor in a family in Virginia, then assumed the same position at Esopus, in the State of New York, and finally went to New Brunswick, in New Jersey, and there prepared boys for college. In this way he obtained the necessary funds, was finally enabled to enter the office of William Paterson, at one time Governor of New Jersey, afterward one of the judges of the Supreme Court of the United States and then, one of the leading lawyers of the State. Andrew Kirkpatrick was admitted to the bar in 1785 and began the practice of his profession at Morristown, where he had some relatives residing. He undoubtedly would have obtained a lucrative practice there, but soon losing his library and office by fire, removed to New Brunswick, where his commanding talents were soon appreciated. He added to his native ability, which was uncommonly great, a most untiring industry; and the combination of these characteristics with his stern integrity soon won for him a leading position at the bar, not only in his county, but all over the State. In 1797, he was elected to the Assembly from Middlesex County, but was very soon obliged to resign, so as to assume the position of Associate Justice, to which he was elected in January, 1798. He held that office for six years, and then, when the term of Chief Justice Kinsey expired, was chosen to succeed that gentleman. He was twice re-elected, so that he held the position, in all, twenty-one years.



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During his term he became much interested in the creating of the office of Reporter of the decisions of the Supreme Court, and it was mainly due to his exertions that the court was invested with the power of appointing a person to fill this position. Chief Justice Kirkpatrick was instrumental in selecting William S. Pennington, as the first reporter, who was an Associate Justice and thus had ample opportunity to make the fullest reports of the decisions. His reports were published in two volumes. Then came Southard, also an Associate Justice, in two volumes, and he was succeeded by William Halsted with eight volumes. The decisions of Chief Justice Kirkpatrick are found scattered through Pennington, Southard and the first two and part of the third volumes of Halsted.

He was a man of very extensive learning, especially relating to real estate; of great acumen and power of analysis. He was not a brilliant genius nor was his mind rapid in its movements, but he rarely failed in arriving at a proper judgment in any case submitted to him. He sat frequently in the *nisi prius* Courts, or, as they are called in New Jersey, the Circuits of the Supreme Court. In the cases there brought before him he was obliged frequently to express himself extemporaneously. In all these utterances, he was lucid and direct; jurors had no difficulty in understanding him and his opinion of the legal principles involved in his charges. When time was given him for thought and he could commit his ideas to writing, he was convincingly strong. His mind was logical and its distinguishing characteristics were those peculiarly fitted for the bench.

His decision in the case of Arnold *vs.* Mundy has remained in the jurisprudence of the State as a model of research, of the most diligent study, of the closest scrutiny and of the strictest examination of the history of the legislation of the State and the legal principles involved in the case. The value of the property for which the suit was brought was very small; but the questions of law presented were of the utmost importance. The cause involved the question as to the right of owners of land on a tide-river to exclusive fishery in front of their property.

As has been already stated the lands of New Jersey had been granted by Charles II to his brother, the Duke of York. The grant was accompanied with one of sovereignty. The Duke of York, in turn, conveyed both the right of proprietorship and that of government to a body of men called the Lords Proprietors, whose successors exist to

this day. In 1702, the Lords Proprietors ceded the right of sovereignty to Queen Anne, but retained the fee of the land. Arnold, the plaintiff, owned land on the bank of the Raritan River, a tide-water stream. He had planted oysters in front of his land, in a bed between high and low water mark and claimed the right of an exclusive fishery. A fleet of skiffs with the avowed purpose of testing this right, invaded the oyster bed and dredged a few bushels of oysters. A suit was brought against the trespassers and tried before Chief Justice Kirkpatrick, at the Circuit. When the plaintiff rested his case, a motion for a non-suit was made and argued before the whole bench. The most distinguished counsel in the State participated in the debate and the most consummate skill was manifested in the argument on both sides. The questions involved required research not only into the law, but also, into the history of the State and of the mother country. The court decided that no owner could have an exclusive right to a fishery in front of his land on tide water; that when the Lords Proprietors by their patent conveyed the land originally to the plaintiff's grantor, they could only grant the fee to low-water mark, and that the people of the State had an equal right to the oysters with the owner, although he had planted the bed. The case was elaborately argued, not only by counsel but by the Chief Justice, and the rule was discharged. The opinion has been frequently criticized but never directly overruled, and the decision remains to this day the law in New Jersey. The opinion is remarkable for its great learning, its profound knowledge of the common law and its admirable judicial style.

It will be considered somewhat remarkable that Chief Justice Kirkpatrick should have had such admiration for the black letter and common law of England, when it is known that he was the author of a law passed by the Legislature of New Jersey in 1799, which enacted that no report of legal decisions, no digest nor law book published in Great Britain after 1776 should be read in the courts of the State. He was a great stickler for the old fashioned practice in pleading; knew Coke upon Littleton almost by heart and regarded with great disfavor any modern innovations upon the practice. He held the office of Associate Justice from 1798 to 1803, and that of Chief Justice from 1803 to 1824.

He married Miss Jane Bayard, the daughter of Col. John Bayard, who made a distinguished record in the Revolutionary War. Chief Justice Kirkpatrick was a man of remarkable presence and bearing, and of great personal beauty; he and his wife were pronounced the hand-

somest couple in New Jersey. In private life he was of unsullied character and in his family was unrivalled as a father, husband and friend. Some of his letters to his wife, still retained by his descendants, are full of affection. He was a public spirited man, foremost in aiding measures for the common good; of great piety and unaffected zeal in the cause of religion. He was the founder of the Theological Seminary at Princeton, connected from its foundation with the Presbyterian Church in America, and was the first President of its Board of Trustees, which position he held for many years. He took a very deep interest in his *Alma Mater* and from 1809 to the time of his death was one of its trustees. He died in 1831, at the age of seventy-five. A grandson bearing the same name was for many years President Judge of the Essex County Courts of New Jersey,—a position of great responsibility and importance, and was afterwards appointed Judge of the United States District Court of New Jersey.

During the twenty-one years that Andrew Kirkpatrick was Chief Justice, the Supreme Court was composed of a Chief and two Associate Justices. Five persons — William S. Pennington, William Rossell, Mahlon Dickerson, Samuel L. Southard and Gabriel H. Ford—were Associates during his time, all of whom, except Rossell and Ford, attained gubernatorial honors.

Among the early settlers in Newark, in 1666, was a young man named Ephraim Pennington. He probably came from the colony of New Haven, in Connecticut. He signed the "*fundamental agreements*" already referred to, which provided that no one could vote or hold land in the new Colony, unless he were a member of some congregational church; and as a home and "*out*" lots were allotted to him, young as he was, he must have complied with the necessary requirements, to entitle him to an equality with other members of the church. The quaint old English cottage which he built and which was used for nearly one hundred and fifty years as a homestead for the family, was standing until after the beginning of the nineteenth century. This young man, Ephraim Pennington, was the ancestor of a family which has given many distinguished men to the State and nation. William Sandford Pennington was his great-grandson and was born at Newark, about the middle of the eighteenth century. His mother's brother, William Sandford, after whom he was named, was a very large landholder between Newark and New York, and early in life his nephew was apprenticed to him to learn to be a farmer, with

the understanding that he was to be his uncle's heir. When the lines between Whig and Tory were sharply drawn, the uncle and his nephew found themselves standing far apart from each other; William Sandford embraced the royal cause and young Pennington was an ardent supporter of the colonies. The uncle threatened to disinherit the young patriot, if he continued in his disloyalty to the British crown, but the young man chose rather to risk losing a very large fortune than to surrender his principles. The uncle sundered the relation of master and apprentice, and young Pennington, at a very early age, entered the patriot army and joined a company of artillery. He soon attracted the attention of General Knox by his cool and intrepid conduct at an engagement, when, abandoned by his comrades, he continued to fire the cannon intrusted to him, and was instantly promoted to a lieutenancy. He took an active part in several battles, was present at the siege of Yorktown, was wounded either there or soon after and was brevetted captain. After leaving the army, he became a hatter and embarked in some commercial enterprises. He kept a diary, while in service, which is still existing in the library of the New Jersey Historical Society. Unfortunately, it covers only about a year's time. Much information can be gained from it, short as is the period it covers. He seems to have been present at the execution of Major Andre; he certainly was one of the detachment sent to Pompton to quell the mutiny of the troops of the New Jersey line.

In 1787, he was elected to the Assembly from Essex County, and, in 1801, while a student-at-law, represented the same county in the Council and was re-elected Councillor, in 1802. In 1798, he entered the office of Elisha Boudinot, as a student-at-law and was licensed as an attorney in 1802. In February, 1804, before he had been licensed two years, and prior to the time when, according to the rules of the Court, he could become a Counselor-at-law, he was made an Associate Justice of the Supreme Court, to fill the vacancy occasioned by the elevation of Andrew Kirkpatrick to the Chief-Justiceship. Mr. Pennington, with his brother Samuel, who for fourteen successive years was a member of the Lower House of the Assembly, was a leader in the Republican, or, as it was afterward called, the Democratic party, who opposed the Federalists. This organization had very few lawyers in its ranks. Pennington was then in middle life, was a man of pronounced ability, of great good sense, of excellent judgment, was wise and sagacious; and his appointment as Associate Justice was the best

that could possibly be made from his political organization. Of course, the dominant party would make no appointment from among its opponents

Judge Pennington's selection was a necessity; it seemed like an experiment, and many old and experienced lawyers sagely shook their heads when it was announced; but he very soon convinced the bar, even the best of the profession, that he was far better fitted for the position than was feared. His native ability was good, his powers matured, his industry untiring; and the lawyers practising in his court soon learned to confide in his judgment and to respect his opinions.

In 1806, mainly through the exertions of Chief Justice Kirkpatrick, the office of Reporter of the Supreme Court was created and the judges appointed Judge Pennington to that position, which he held until his election as Governor and Chancellor, in 1813, when he resigned and Samuel L. Southard, another Associate, was appointed.

Judge Pennington was an advanced lawyer, ahead of his times and had the force of his convictions. He did not believe in enforcing the antiquated abstractions of special pleading; and although he had a great respect for the head of the court, he never failed, when he differed from his chief, to express his opinions fearlessly and decidedly.

In 1812, he was a candidate for Governor, which office then included that of Chancellor, but was defeated. In 1813, he was more successful, but the next year, was again defeated. In 1815, he was appointed by President Monroe to the office of Judge of the United States District Court of New Jersey, to succeed Robert Morris, who died, after many years of ill health. This position was almost a sinecure. There were four terms during the year,—two held at Burlington, and two at New Brunswick; they rarely lasted, however, more than a day. No grand jury was ever sworn in his court, nor were any indictments found. He held this office until 1826, when he died, at Newark, where he was born, and where he had lived all his life long, except while Governor, when he resided at Trenton. He was of an unsullied character, both as a man and as a judge, and possessed the confidence of the entire community. He was the father of a large family, among whom was William Pennington, for many years Governor and Chancellor of New Jersey, a Representative in Congress and Speaker of the Lower House at the stormiest period in the history of the Republic, just before the breaking out of the Civil War.

Judge Pennington, besides the two volumes of Reports already mentioned, wrote a small volume for the use of young lawyers,—a treatise on the small-cause courts. It was an excellent compilation, but has been superseded by more modern works on the same subject. Fifty years ago, it was found in every lawyer's library of any extent in New Jersey, and was then much quoted, being regarded as final authority on all matters of which it treated.

William Rossell was not a lawyer; but, he became, through his indefatigable zeal and by virtue of his sound intellect and great industry, quite versed in the principles of the subtle science he was called upon to expound. He was a saddler, and when raised to the dignity of third Justice of the Supreme Court of New Jersey, had but a smattering of legal knowledge. By what fortuitous circumstance he was raised to the honor of the bench, is not now known. It was, undoubtedly, a political move. Judge Rossell belonged to the Republican party, opposed to the Federalists, and was elevated by his party when in power. He is reported to have said that the reason why he was selected was because there was no lawyer in the western part of the State, and that he had been persecuted by the Federalists. He had certainly been an active partisan, and it is probable that his appointment was a reward for political services rendered. At first his election was regarded with great disfavor and an act of the Legislature was actually passed which provided that no judge should hold a circuit in the same county for two terms in succession. Judge Rossell's ignorance of the practice of the profession, especially of the forms and modes of pleading, was so great that the lawyers were afraid to trust their cases to his adjudication. But he proved himself in the end to be a very fair judge, certainly a very impartial one, although, even while on the bench, he took a very deep interest in political affairs and was a leader in his party. In some respects he was an able judge; his good sense and sound judgment enabling him to master the principles which underlaid the cases submitted to him. He read an opinion in Arnold *vs.* Mundy, already referred to, which was sound and showed extended study and deep thought.

At the death of William Sanford Pennington, he was appointed to fill the position of Judge of the District Court of the United States for New Jersey. He died in 1840, quite an old man.

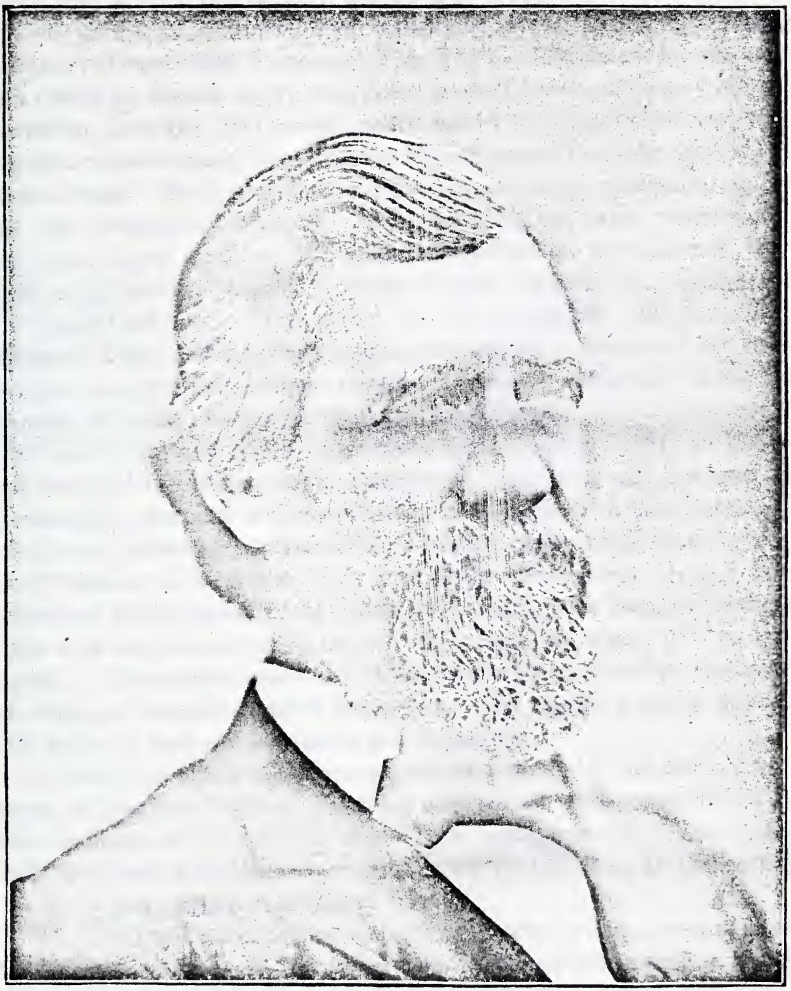
Mahlon Dickerson was a judge of the Supreme Court for two years and Governor and Chancellor for the same length of time. He was

more remarkable for his public services, as Senator and Secretary of the Navy, under General Jackson, than for those he rendered to the State as Judge or Chancellor. He was always a public man and a politician, but a politician of the better kind, free from stain. He was descended from Revolutionary ancestry. His father raised and equipped, at his own expense, a company which went into the patriot army. He was born in 1771, was graduated at Princeton, in 1789, and licensed as an attorney in 1793. He removed to Pennsylvania and was licensed there in 1797. This fact, probably, prevented him from taking the degree of counsellor in New Jersey; his name does not appear among the list of counsellors in the Supreme Court. While living in Philadelphia, he held many public positions and was an active partisan, sympathizing with the Republicans. In 1810, he came to Morris County, in New Jersey, where his father had large and very valuable possessions. In 1812 and 1813, he was elected to the Legislature from that county and while a member of the Lower House, was chosen by the joint meeting a Justice of the Supreme Court to succeed Judge Pennington, who had just been made Governor. He was on the bench, however, for only two years, when he became Governor. Then, in 1817, he was elected to the Senate of the United States and was returned as Senator in November, 1822. In 1829, he was succeeded by Theodore Frelinghuysen as Senator, but by a strange combination of circumstances, was again returned to the Senate. Ephraim Bateman, who was then Senator, resigned the same year on account of ill health, and Mr. Dickerson was elected to fill the vacancy thus created, so that he held this office for sixteen years. He took a prominent position while Senator, and was identified with the Republican party, finally became attached to the Democratic organization and, in the end, supported Andrew Jackson. He was offered the position of Minister to Russia, but declined the appointment and, in 1834, became a member of General Jackson's Cabinet, as Secretary of the Navy. In 1840 he was made Judge of the District Court of the United States, for New Jersey, in the place of Judge Rossell, who had just died, and held the office for about six months. He was offered the position of Reporter of the Supreme Court, but declined it. There are no reports of his decisions while on the bench. He was not fond of the profession, and it is not probable that he exhibited any great proficiency in legal knowledge; but he was an able man and made an impartial and discreet judge. His manner was very courtly; he was a gentleman of the olden time. He never married and

left a large fortune to his relatives, some of whom are now occupying and owning his valuable property at Succasunna. His death occurred in 1853, when he was eighty-two years old,

Samuel L. Southard was a representative Jerseyman of the better class of politicians. His position in the political circles of the Republic was so pronounced, and his utterances in public life so brilliant, that it is frequently forgotten that he was ever Governor and Chancellor, or Judge. His father was a remarkable man,—at first, but a common day-laborer, but rising from that condition by the sheer force of his native ability, he filled successively the offices of Justice of the Peace, member of the Assembly, and finally became a Representative in Congress, where he met his more distinguished son, then a Senator from New Jersey, both being members of the joint committee which reported the Missouri Compromise. The father was a representative in Congress for sixteen years,—perhaps the longest time of service in that position ever given by any citizen from New Jersey.

Notwithstanding his father's poverty, the very best opportunities were afforded to young Southard for the acquisition of an excellent education. He was prepared for college at one of the best academies in the State, and under the tuition of a thorough and experienced instructor. Here he met Theodore Frelinghuysen, his life long friend, Joseph R. Ingersoll and Philip Lindsley, who became eminent men in their different professions. At a very early age he entered Princeton College, where he again met his academic friends and graduated from that institution when a little more than seventeen years old. He was then obliged to face the stern realities of life unassisted by his father's purse. Very soon after leaving college, he taught a school at Mendham, in his native State, and in his nineteenth year made his way to Virginia and became a tutor in the family of Col. John Taliaferro, a wealthy planter living in Prince George County. Here he was treated as a member of the family and introduced to refined and cultured society, in which he met James Madison, the future President of the United States, for whom he had a high admiration. Here, too, he met the lady whom he afterward married. While engaged in his duties as tutor, he studied law and, in 1809, was licensed by the Virginia courts. He returned to New Jersey, was licensed by the Supreme Court as an attorney-at-law in 1811, and began the practice of his profession at Flemington, in Hunterdon County. His talents and industry soon secured a large clientage and he became one of the leading lawyers in



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West New Jersey. He had not been long in Flemington before he was appointed Prosecutor of the Pleas for Hunterdon.

In 1813, the Legislature of New Jersey passed a statute which provided that Aaron Ogden and Daniel Dod should be vested with the exclusive privilege of using the waters of New Jersey for steamboats passing between that State and New York. This statute was intended as a check to an act which had been passed by the State of New York, providing that the first person who should construct a steamboat capable of a certain speed should have the monopoly of the waters of the latter State. Fulton and Livingston had been successful in acquiring the monopoly, and, in 1815, an attempt was made to repeal the New Jersey statute. Thomas Addis Emmet represented the New York applicants; Joseph Hopkinson and Samuel L. Southard spoke for Ogden and Dod. The effort of Mr. Southard secured his future success; it lost nothing by comparison with the efforts of his more experienced and distinguished rivals. It was a masterly effort and although it failed in convincing the Legislature, yet it convinced those who heard him and could appreciate such an effort, that in Mr. Southard were all the elements of a successful advocate and lawyer. At the succeeding election he was chosen a member of the Assembly and while such member, was elected a Justice of the Supreme Court to succeed Mahlon Dickerson, who was made Governor. Judge Southard remained on the bench five years, and during the larger part of that time was the Reporter of the court. But his place was not on the bench. His talents were of a kind which fitted him for another sphere of action, a broader field of endeavor. He made a very good judge and lawyers had confidence in his decisions.

In 1821, the office of Senator became vacant by the expiration of the term of Senator Wilson. Strong objections were entertained against him by some of the leading men of the party to which he was attached; Mr. Southard was elected, immediately resigned as Judge and Gabriel H. Ford was chosen to succeed him.

Mr. Southard entered the Senate at a very critical period in the history of the politics of the Republic. The country was in a ferment; Missouri had applied for admission into the Union and the Lower House of Congress had refused, by a very large majority, to admit her. Mr. Clay, who was then representative from Kentucky, had moved for a joint committee. Mr. Clay was an old and experienced politician; Mr. Southard was a new member and lacked the prestige

of long service in the political field. However, he prepared a series of resolutions which were submitted to Mr. Clay, who approved of them and it was agreed that Mr. Southard should present them in the Senate. But, on the morning of the very day they were to be offered, Mr. Clay urged that the resolutions should be used by himself in the House. Mr. Southard consented and the Kentucky statesman brought the resolutions without alteration before the lower branch of the National Legislature, where they were passed and afterward received the sanction of the Senate. These were the celebrated Missouri Compromise resolutions for which Mr. Clay received so much laudation. They were the work of Samuel L. Southard, the Senator from New Jersey, who has received no credit as their author.

In 1823, he was made a member of Monroe's cabinet; the great Virginian did not forget his youthful friend, and now made him Secretary of the Navy. When John Quincy Adams was elected President he continued in the position,—a compliment to the ability and patriotism of the Jerseyman not since offered any citizen. In 1829, he was made Attorney General; in 1832, he was again returned to the Senate of the United States, re-elected in 1836 and in 1841 was appointed President of the Senate, which position, on the death of President Harrison, made him virtually the Vice-President of the United States. He died in 1842, enjoying the respect of all, even of his political opponents, one of whom, Senator King, from Alabama, made a most feeling address when his death was announced in the Senate Chamber.

Gabriel H. Ford, who succeeded Samuel L. Southard as Associate Justice, came of the very best stock in the State. His father was Col. Jacob Ford, Jr., a distinguished officer in the Revolutionary Army and a firm and decided patriot. He built and, at the time of his death, owned the Washington Headquarters, at Morristown, where Washington resided in the winter of 1779–80, and his mother was the daughter of the Rev. Timothy Johnes, the pastor for half a century, of the historic Presbyterian Church of that place. The Ford family was very influential and numerous, and the Johnses were among the very first in the county.

Judge Ford was born in 1765, graduated at Princeton College in 1784 and then studied law with Abraham Ogden, a leading lawyer at Newark, where he met, as fellow students, William Griffith, Richard Stockton, Alexander C. McWhorter and Josiah Ogden Hoffman, all afterward distinguishing themselves as lawyers. He was licensed in 1789 as an attorney, and as a counsellor, in 1793.

Reference has already been made to the county courts and to the judges of these courts as entirely unfit for the performance of their duties. The system was so vicious that the Legislature attempted to remedy the evil, and in 1818, by statute, divided the State into judicial districts and directed that a fit person should be appointed as president judge, for each district, who should be "skilled in the law." One of these districts, a very large one, composed of Bergen, Essex, Morris and Sussex, was committed to the care of Judge Ford as Presiding Judge of its several county courts. The law, however, was an unpopular one, was soon repealed and Judge Ford was legislated out of office. He was a candidate to fill the office caused by the resignation of Judge Southard, as Associate Justice, and seemed to have strong claims for that appointment. He had been long enough in the office of District Judge to give evidence of his competency to fill that of Associate Justice, and was elected, but not without very strong opposition. His opponent was Joseph McIlvaine, who received only one vote less than Mr. Ford. The election, however, was determined by the fact of locality rather than by the superior ability of the successful candidate. Mr. McIlvaine was the stronger man, the better lawyer; but, Mr. Ford was from East Jersey. Judge Ford, however, became a very influential justice, and his decisions were generally reliable, but he did not receive the full confidence of the bar. He was very conscientious and industrious, a patient listener to arguments and the most methodical man who ever sat on the bench of any court; and this precision he carried into all the details of his private business. He was a gentleman of the old school, courteous and affable to the last degree, precise in his manner of speech and in all his public service. In the performance of one part of the duties of judge, he was unrivalled, and that was in his charge to juries. He was most persuasive in his addresses on such occasions and generally succeeded in convincing his hearers. If he failed in the performance of this duty it was in his determination to convict when he thought a defendant guilty.

He filled the office of Associate Judge for three terms and retired in 1842, only induced to relinquish an attempt at re election for a fourth term by his increasing years and the consciousness that a growing deafness would soon render him unable properly to discharge the duties of the office. He died in 1849, at the advanced age of eighty-five years.

He was of an unsullied reputation, just and impartial as a judge, patient in investigation and sincerely desirous of performing his whole duty.

Charles Ewing succeeded Andrew Kirkpatrick as Chief Justice, in 1824. Kirkpatrick had rendered himself somewhat obnoxious to some of the lesser lights of the bar, who imagined that he had become arbitrary and dictatorial. It is true that he did, at times, manifest an impatience at long arguments, but it is more than probable that counsel had exhausted the case they were supporting long before they were called to order by the Chief Justice. It is reported that while a member of the bar, who afterward became an Associate Justice, was arguing some matter before the court, Kirkpatrick took his watch from his pocket, looked at it for a moment intently and then, deliberately turned its face toward the speaker. Long arguments are now prevented by a rule which limits the time of each counsel; but then, no such rule existed and no other method could, perhaps, be so well adopted to stop the deluge of small talk, which must have annoyed a man so capaciously equipped, mentally, as was Kirkpatrick. The stronger members of the bar deprecated the action of the Legislature which refused to appoint him. No one was more outspoken in denouncing this action than was Charles Ewing. He was not averse from receiving the appointment, but he was unwilling to take the office in the character of an opposing candidate to the late incumbent. He objected to any change, even if he himself were to benefit therefrom; and it was only when he ascertained that there was no chance of his predecessor being retained that he consented to accept the position. The change, however, resulted in the concurrence of all parties in the sentiment that there was no fitter successor to Andrew Kirkpatrick than Charles Ewing.

His grandfather was distinguished for his bravery at the battle of Boyne-water, where he fought for King William, who rewarded him for his courage and devotion by presenting him with a sword. The son of this friend of King William came to New Jersey in 1718, and settled in Cumberland County, where he married a Miss Boyd, who became the mother of the future Chief Justice, her only son, who was born in 1780. He graduated from Princeton College a first honor man, entered the office of Samuel Leake, an eccentric lawyer, and, in due course of time, was licensed as an attorney and then as a counsellor.

Charles Ewing was fully equipped for the performance of his duties as the head of the Supreme Court and brought to the bench fitting

qualifications. He had been educated in the office of a lawyer who was a great lover of the black letter English law and the pupil fully shared with his master in his admiration for the old teachers. He was a lawyer by instinct and loved his profession, its studies and its practice. He had no liking for any innovations of modern times and viewed with much jealousy any interference by the Legislature with the settled principles of the common law. Yet, he was broad minded enough to appreciate any improvement and did not hesitate, if his judgment approved, to adopt readily and heartily any change which might prove a benefit to the jurisprudence of the country. A case was decided in his court where he dissented from his two associates and insisted upon an abrogation of an old common law rule. This was a great surprise to the bar at the time, but it carried out the idea that Chief Justice Ewing was not so wedded to old rules that he could not change them for better ones. His mind was naturally inquisitive and he was never satisfied with any mere cursory examination of subjects brought to his attention. A very large part of the business of the Supreme Court consisted in considering cases brought from justices of the peace by *certiorari* or otherwise. Many of these involved small amounts; but this made no difference with Chief Justice Ewing; if there were any principles of law in the case—and he was sure to ascertain if there were any—his scrutiny was as searching and exhaustive as if there were millions at stake. In his investigations he never rested until every possible authority had been examined and all doubt removed. His patience was untiring and he listened apparently unwearied, to the arguments of counsel, however prolix and uninteresting. His earnest and honest endeavor was to learn the real merits of the case. His great honesty of purpose and integrity of action were striking characteristics of his nature. His character as a citizen was unsullied by a stain and in his action as a judge, he was possibly too strict in avoiding even the appearance of evil. He refused to receive any fee unless it was unmistakably and in express terms allowed by the statute. The salary of the judges then was very small and the expense in attending the different circuits was very large. Lawyers who could afford it were in the habit of inviting the judges to their houses while attending court. But Chief Justice Ewing invariably declined their invitations, so as to avoid the appearance of partiality. He was an excellent scholar and a close student of other subjects than the law. In the relations of private life he was all that could be desired and left behind him a most enviable record.

Mr. Ewing held the position of Chief Justice for one term of five years and was then re elected without opposition by the political party opposed to him, no one, in fact, being named as competitor. In 1832 less than a year after his re-election, he was stricken down by cholera and died, to the great regret of all parties. He died as he had lived, a firm and decided Christian.

Among the many cases decided by him, perhaps the most remarkable was that of Hendrickson *vs.* Decow; it was one which certainly elicited the greatest interest and attention. A very large element of the population of South Jersey was then, and is now, made up of Quakers. This sect, then and still, comprises among its members some of the very best citizens of the State, but had been hopelessly divided into two great bodies called the Hicksites and Orthodox. The division was well marked and clearly defined and the quarrel between the two parties had assumed that rancor and discord to which religious contests too often descend.

A controversy arose over a mortgage which was subjected to foreclosure in the Court of Chancery. Both parties claimed the fund and it was finally submitted to the Chancellor to decide the true ownership. That official had been counsel for one of the parties and could not hear the cause. He called to his aid Chief Justice Ewing and Associate Justice George K. Drake, and the cause was tried before them, as advisory masters. It was argued by the most distinguished counsel and in the most elaborate manner. A week was consumed in the argument and the testimony filled two large octavo volumes. Questions of law, of fact and of theology were discussed; the government of the Quaker denomination was examined and every possible argument which the acutest intellect and the profoundest learning could dream of were brought into the cause. When the day of decision arrived, a most impressive scene was witnessed. The court room was crowded with quiet, undemonstrative Quakers, who sat, apparently, imperturbable, with their hats on, but divided into two unmistakably antagonistic bodies. They attempted to retain their stoical calmness, but in vain; compressed lips, gleaming eyes and twitching features fully evinced the tumult which surged within their breasts. As the time approached for the delivery of the opinions, the silence became almost painful, only interrupted by the rustling of the paper held by the judges. The Chief Justice first read his decision, written in the purest and best English, in his usual calm, clear and deliberate tone, incisively enun-

ciating his view of the law which governed the case and discussing the facts involved. His opinion was masterly and convincing and could by no means be misunderstood; it was the pitiless, cold, logical argument of a judge dealing with problems of law, but couched in such courteous tones and manner that even the defeated party could find no quarrel with it, nor with the man who pronounced it. Not so, with Judge Drake; he was equally clear and definite, but his opinion went further than the Chief Justice's and decided not only the principles of law involved in the case, but discussed the theological questions which divided the two religious bodies and so exasperated the Hicksites, who lost their case, that they revenged themselves by taking the most efficient means to prevent his re-election when his term expired.

When the result was announced, the most interested spectators rose and quietly shaking one another's hands in their usual quaint fashion, Hicksite with Orthodox, left the room.

George King Drake, an Associate with Chief Justice Ewing, was born in Morris County, on the 16th of September, 1788. He was the son of Col. Jacob Drake, a patriotic officer in the Revolutionary army. His mother was a near relative of Mahlon Dickerson, who has already been noticed, and the widow of George King, a member of one of the most respectable families of Morris County, after whom Judge Drake was named. He received his early education under the Rev. Amzi Armstrong, who, at one time, was the preceptor of Samuel L. Southard and who had, in his time, as pupils some of the most distinguished men of the Republic. He entered Princeton College in due course of time and graduated from that institution in 1808, having for his classmates, Bishop Meade, of Virginia, George Wood, and Judge Wayne, of the United States Supreme Court. Immediately after graduation, he entered the office of Sylvester Russell, a leading lawyer in Morristown, was licensed as an attorney in 1812, as a counsellor, in 1815 and in 1834, was made sergeant at-law. So soon as he was licensed, he began the practice of his profession at Morristown. His practice steadily increased and he won and secured the confidence of the community by his strict integrity and commanded the respect of the bar and bench by his superior talents and close attention to the interests of his clients. In 1833, he was elected a member of the House of Assembly, was twice returned by his fellow citizens of Morris County to the same position and became the Speaker of the House during the last

two years. While a member of the Legislature, in 1824 and 1825, he was made Prosecutor of the Pleas for Morris County, and in 1826, still a member of the Legislature, was appointed an Associate Justice of the Supreme Court to succeed Judge Rossell. While holding this office, and to meet the wishes of the members of the bar in the southern part of the State, he removed to Burlington, where he remained while on the bench. At the expiration of his term, the Hicksite Quakers combined with the political party opposed to him and elected enough members of the Legislature to prevent his re-election. His defeat was deprecated by all parties, except those who were determined to be revenged upon him for doing that which he deemed to be his duty, and no one more strongly condemned that action than did the gentleman who succeeded him and who only consented to accept the office when he ascertained that his predecessor could by no possibility be re-elected. Judge Drake was tall and rather slender, but with a commanding presence. He was a clear-minded thinker and a good lawyer; he was not a brilliant man, but a man of excellent judgment, possessing a discriminating intellect of more than ordinary powers, and easily grasped the salient points in a case. His opinion in the great Quaker cause, to which reference has already been made, is perhaps as good an example of his mode of reasoning and ability as any other which he decided. He returned to Morristown after his term expired and resumed the practice of his profession; but his long absence from his former clientage interfered very materially with his success. His health had suffered from a very severe attack of rheumatism, from which he never entirely recovered. In the spring of 1837, he imprudently rode on horseback from Morristown to Succasunna, was seized with pleurisy and died at the residence of his brother-in-law, Dr. Woodruff.

Joseph C. Hornblower, who succeeded Chief Justice Ewing, in 1832, was the first and only citizen born in Essex County who ever held that office. He was the son of Josiah Hornblower, an Englishman, who came to New Jersey in early youth, and settled at Belleville and who was a man of learning and a surveyor, of great public spirit, identifying himself especially with the educational interests of the community. He became a member of the Legislature and of the Continental Congress, was a justice of the peace and a Judge of the Court of Common Pleas. Young Hornblower, in boyhood, was of a weak physical constitution and could not therefore avail himself of all the advantages then offered for obtaining a superior education, but whatever could be



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done for him in that direction, was carefully afforded him. He finished his studies in the Orange Academy, at that time one of best conducted and most celebrated institutions of learning in the State and of which his father was one of the trustees. John McPherson Berrien, prominent in Southern politics, at one time Senator and at another, Attorney General of the United States, was a fellow student at this institution. Mr. Hornblower, after leaving the Academy, was employed in New York by his brother-in-law, in some mercantile enterprise, but very soon determined that he was fitted for a different life. He accordingly entered the office of David B. Ogden, afterward a celebrated lawyer in the city of New York, and after a course of five years' study, was licensed as an attorney, in 1803, became a counsellor in 1806, and subsequently, sergeant-at-law. It is said that Mr. Ogden had so high an appreciation of the merits of his student that he offered him a partnership before he had finished his term of study.

At the time when Mr. Hornblower began the practice of his profession, Newark was a long straggling town of perhaps 5,000 inhabitants. Its history had extended during a period of a little over a century. The old puritanic feeling and sentiments which dominated its first settlers was still there, almost as strong as ever. Mr. Hornblower was physically a man of feeble health, not fitted for the severe struggle of life among a stern and pitiless people. He could only hope to succeed by the sheer force of his mental ability, but his success was assured almost from the very beginning. His competitors in the race, then in active business life in Newark, were no mean antagonists; some of them were the very best lawyers in the State. But he proved himself equal to the task and soon became a successful practitioner. In one line of his profession he was particularly eminent, and that was in the trial of causes and in addressing juries. He spared no pains to fit himself for the discharge of his duty as an advocate and became one of the ablest at the bar of New Jersey.

In 1832, Chief Justice Ewing died and Mr. Hornblower became one of the leading candidates for the office. By this time his position as a lawyer and an advocate was established. There were, however, those who objected to his appointment and, perhaps, with good reason. He was a man of impulse, too quick in arriving at a conclusion and too apt to permit his judgment to be swayed by his emotions. When once interested in a cause, he made it his own; his client was the only injured party and his eyes were closed to any arguments except those

which aided in the establishment of what he considered the right. These characteristics which certainly did exist, more or less, in Mr. Hornblower's mental make-up, were urged as strong objections to his appointment and they were all that could be established; but, to those making them, they were deemed insuperable. Notwithstanding the opposition, he was elected; and, while it is certain that he erred in the directions indicated by his opponents, yet his success as Chief Justice was almost phenomenal. He was too impulsive and would frequently form incorrect judgments by yielding to first impressions; but the impulses of his generous nature were so correct that he rarely failed, in the end, of doing entire justice. He was a learned lawyer, fertile in intellectual resources and of marvellous industry; his inquiring mind was not satisfied with mere cursory examination, but would return again and again to the scrutiny. His pride of opinion was great, but not obstinate; he was willing to be instructed and, if in error, the nobility of his nature taught him how to acknowledge his mistake and make all needed reparation. He was a close student and supplemented by research and industry, added to his native vigor of mind, what he had lost by the lack of educational advantages. His intellectual characteristics, manifested through his whole career, were quickness of perception, alertness in grasping the main, prominent features in a case and a readiness of expression. Ideas seemed to come too rapidly, so rapidly, sometimes, as to obscure his mental vision and prevent a proper appreciation of the real issue; but, his sober second thoughts and his willingness to listen and yield to logic and argument, prevented him from making any great mistakes. A notable instance of this feature in his character was manifested in the proceedings connected with the trial of a man named Thomas Marsh, indicted for murder. A building had been burned and two human lives sacrificed. By the statute of New Jersey, this offence was a capital one. Marsh had been tried and convicted at a term of the Oyer and Terminer in Essex County, held by Justice Whitehead. During the trial, his counsel became unmistakably insane. A motion was made for a new trial and Judge Whitehead called to his aid Chief Justice Hornblower, who heard the argument on the motion. He wrote an opinion denying the new trial; Judge Whitehead remonstrated and presented such arguments to his chief that he was induced to reconsider his opinion. The new trial was granted and Marsh was acquitted.

Chief Justice Hornblower settled the law in New Jersey in two most

important particulars,—one, relating to challenges of jurors and the other, governing the defence of insanity. Eliphalet M. S. Spencer had been indicted for murder and Chief Justice Hornblower presided at the trial. He prepared in advance an opinion on the subject of challenges, and, as the clerk was about to call the jury, announced this opinion. He decided that there could be no challenge to a juror because he had formed or expressed an opinion in the case, before the trial, unless it appeared that the "*opinion expressed was out of ill will or malice toward the party.*" This opinion was approved by the full bench of the Supreme Court, after solemn argument. It is certainly contrary to the practice, as it obtains to-day, in many other States. If Chief Justice Hornblower's law, as laid down by him in Spencer's case, governed judges elsewhere, the miserable spectacle would not so often be witnessed when days and sometimes weeks are spent in seeking for an incompetent jury. In the same case he also declared two opinions,—one of which is settled law in New Jersey, and the other open to criticism. One was his definition of that kind of insanity which ought prove a sufficient defence in indictments for crime. He summed up his opinion on that point in these words, in his charge to the jury: "If the evidence makes it clear to your minds, beyond a reasonable doubt, that the prisoner at the time, *was unconscious that he ought not to do it*, he is to be acquitted; but, if not, then he cannot be acquitted on the ground of insanity, *whether he was partially insane or not.*" He utterly discarded the idea of moral insanity and by his charge did not leave the prisoner a ghost of a chance for acquittal upon that ground. He was equally emphatic when he addressed the jury on the evidence which proved the intention of the defendant to commit murder. He held that the prisoner was guilty of murder, if, at *any moment of time* before the deed was committed, he intended to take the life of a human being; that it was not even necessary that the act should be the result of a previous determination, but that it was murder in the first degree if at the very moment the knife was plunged in the heart of the victim or the pistol fired, the intention was formed to take life. He made many other important decisions, settling disputed principles, some of which were overruled by his immediate successor; but, as a general rule, his opinions have remained unquestioned. He served two terms of office and retired from the bench in 1846.

He became a member of the Constitutional Convention which formed the Constitution of 1844, and took an active part in the deliberations

of that body, being very influential in shaping its action. In 1841, the College of New Jersey conferred upon him the degree of LL.D.; and after he had left the bench, the same institution attempted to establish a law school, and made him one of the professors; but the school was not successful and Mr. Hornblower, in a measure, resumed the practice of his profession. He did not meet with the success which might have been expected from his great experience and undoubted high order of talent. He delivered some lectures in the law school at Princeton and was not an idle man.

He took a great interest in the public questions of the day, was an ardent politician, supporting in his young manhood, the Federalist party, then the Whig, and when the Republican was formed threw himself, with all the forceful impulses of his nature, into that organization. He died in 1864, in his eighty-seventh year.

He was an easy and fluent writer, and his opinions, as printed, all bear the evidence of his strong, impulsive nature. He wrote well, logically and strongly; if any criticism were made upon his decisions, so far as literary merit is concerned, it would be that they sometimes lacked compactness and precision, were frequently disconnected and seemed the result of a yielding to impulse and not to logic and argument; but his style was correct and often eloquent.

He left quite a family; one of his daughters married Judge Woodruff, a judge of one of the Federal Courts of New York; another married Hon. Joseph P. Bradley, an Associate Justice of the Supreme Court of the United States; and one of his sons was a distinguished divine in the Presbyterian Church and at one time a professor in the Alleghany Seminary.

In 1838, the number of the Justices of the Supreme Court was increased from three to five. John Moore White was one of the two additions to the court. He was born in 1770 at Bridgeton, in Cumberland County, studied law with Joseph Bloomfield, was admitted as an attorney, in 1791, as a counsellor in 1799, and became sergeant, in 1812. His education was quite limited, being that which was acquired by an ordinary English course. He began the practice of his profession at Bridgeton, but removed, in 1808, to Woodbury, where he ever after lived. He made himself fully acquainted with the legal principles relating to real estate, was a good surveyor and was able to try in an able manner any cause in which the boundaries of land came in question or where the title to real estate was involved. His rank at the bar, however, was not high,

but his practice was large and lucrative and he was considered a safe counsellor. In his early practice, the Attorney General deputized counsel in the different counties to try criminal causes and Mr. White acted as Deputy Attorney General for many years, in his own county. In 1822, this practice was abrogated by a special act of the Legislature, which provided that the prosecutors should be appointed by the quarter sessions; but this act was repealed the next year and the appointment of these officers vested in the joint meeting of the Legislature. The constitution of 1844 provided that they should be nominated by the Governor and confirmed by the Senate. In 1833, Mr. White was made Attorney General and held the office for five years. He prosecuted the pleas in several counties, as was then the custom, and made a very successful officer. He preferred this position to that of Associate Justice; but, in 1838, the Legislature gave the office of Attorney General to another and made him Associate Justice. He accepted the office rather reluctantly, believing, and not hesitating to express the belief to others, that he was not fitted for the position. However, he performed the duties of the place intelligently and, generally, with success. He failed in one particular, and that a most important one; his charges to juries were neither strong nor were they calculated to aid them in the discharge of their duties. He was a conscientious man and aimed always at doing just what was exactly right; his honesty, certainly, never failed him. At the expiration of his term of office, having passed his three score and ten years, he retired into private life and died at the age of ninety-one years.

That short-sighted and wicked blunder, known in history as the Revocation of the Edict of Nantes, gave to this country a body of immigrants of the very best character, who have added greatly to the prosperity of the nation. Among those Frenchmen who were driven from their homes and who sought refuge in Holland, was a family named Ryerse. It soon assimilated itself with the cold and phlegmatic Hollanders to a certain extent, but it never lost many of its French characteristics. From this Huguenot family there came a representative to America in the person of Martin Ryerse, who settled on Wallabout Bay, in Long Island. Here, he married Anetie Rapelje, the first white child born in Long Island,—a fact which the Canarsie Indians recognized by donating to her a large tract of land. Martin Ryerse had four sons born to him by this marriage. Three of them went to New Jersey and settled in different parts of the State, one of them finding a

home in Hunterdon County. The family name, by this time, had been changed to Ryerson. From this son who went to Hunterdon County was descended the father of Thomas C. Ryerson, who was born on his father's farm at Myrtle Grove, in Sussex County, in the month of May, 1788.

Young Ryerson had at first only the usual advantages of the common education then afforded by an ordinary school in the country. But when he was sixteen years old, he began preparing for college, and in 1807 entered the junior class in Princeton College, where he graduated in 1809. He then became a student in the office of Job S. Halsted, in Newton, where he remained for four years,—that being the required term of studentship, whether the student was a graduate of college, or not. He practiced his profession at Hamburg, Sussex County, until the year 1820, when he removed to Newton. In 1825 and until the year 1827, he was a member of the Council from Sussex County, and, in 1834, was elected an Associate Justice of the Supreme Court. He was not a candidate for the office and objected strongly to the removal of Justice Drake, of whom he was a warm personal friend. But the Hicksites, who were determined to prevent Drake's re-election, ascertained that he could be defeated with the aid of the members from Sussex County. They therefore nominated Ryerson, without his knowledge and against his consent, as he had urged the reappointment of Judge Drake. But the opposition arising from the Quaker prejudice against him was so strong that Mr. Ryerson received the vote of a caucus of the Democratic party. The majority of that party in joint meeting was large; but one member from Sussex and other Democrats refused to stand by the caucus nomination and Mr. Ryerson was elected by a very small majority. This was not due to any doubt of his ability and capacity, but to the feeling that it was wrong that an honest and capable judge should be punished for doing his duty. Ryerson was not aware of his election until he was notified of it by his friends in Trenton, and even then, he would not accept until he received a letter from Judge Drake, in which he urged him to take the position, "*and that promptly.*" The arguments used by Justice Drake were successful and Thomas C. Ryerson was sworn into office, as an Associate Justice of the Supreme Court, in February, 1834. He did not, however, hold it for a whole term, but died while in office, in 1838.

Judge Drake, in his letter urging his friend to accept the office, rejoiced that the place would be filled by one who would so act that all

might still confide "in the independence and integrity of the court." This prophecy was fulfilled to the letter. Judge Ryerson was an officer of the strictest integrity and of great independence. He was a first-rate lawyer, well equipped for the performance of the duties of his office. He was not quick in his perceptions, his mind partaking of that characteristic of the true judge, which enables its possessor to think well, judge wisely and determine correctly. He was peculiarly discriminating, his perceptions were judicious and his conclusions sound and reliable. He was not content with his first impression of a case, but required, or rather, perhaps, determined to give his thoughts time to form a determination which would be logical and judicial. He was a man of untiring industry, of great candor and conscientious in the discharge of his duties, both public and private. His personal tastes and habits were simple and unostentatious. He was well pleased with sprightly talk and had, himself, a fund of anecdote which he delighted to give his friends. He died at the early age of fifty, his death, in all probability, being hastened by the great industry which ever filled his life.

William L. Dayton was the youngest man who ever sat on the bench in the Supreme Court and, like Samuel L. Southard, was so well known in the political circles of the Republic, that he is not often remembered as a judge. He was born in Somerset County, in 1807, from a most respectable family which had given several prominent men to the service of their country. One of these was a general in the Revolutionary army and another was a member of the Convention which framed the Federal Constitution, afterward a Speaker of the House of Representatives and subsequently Senator from New Jersey. Young Dayton had the best opportunities for obtaining an education which the country could give, in his time. His academic course was pursued under the tuition of celebrated teachers and he was graduated at Princeton College, in 1825. Neither his academic nor college life gave promise of his future greatness. He was rather dull, slow in comprehending his studies, while in academy and college. He entered the office of Peter D. Vroom, one of New Jersey's most accomplished lawyers, as a student-at-law; was licensed as an attorney in 1830 and as a counsellor, in 1833. He removed to Freehold, Monmouth County, and remained there until he was appointed judge. He was not of robust health and at one time was quite slender in person; and perhaps, this physical defect had some influence over his mental activity. He required strong impulses

to rouse him to action. He was not what might be called an indolent man; his mind, certainly, was alert enough, but he did not, by any means, exert his full powers on every occasion, and might be described as an unequal man; some times, exhibiting great powers of intellect, especially when obliged to act, think and speak independently; at other times, disappointing his friends. But he had within himself the elements of greatness, when fully aroused, was equal to any emergency and competent to grapple with the abstrusest principles.

A lucky hit brought him prominently into notice as a lawyer, in the early part of his practice in Freehold. He was retained to defend a client indicted for an assault and battery, and fearing that the defendant could not be acquitted on the merits of his case strove to find some technical point on which to base an argument to quash the indictment. He ascertained that the grand jury had not been legally summoned, moved to quash the indictment, and his motion was sustained. The result was that every indictment found at that term was dismissed. This, of course, brought him very speedily into public notice; clients flocked to his office and his practice soon became very large. Political honors were early accorded to him. He was naturally an ambitious man, and rightfully so; for he was a born politician and was fitted for public life. Such natures as his must necessarily find their true position and whatever trammels may surround them, or obstacles oppose, the end is sure and certain.

Monmouth was overwhelmingly Democratic; young Dayton was a Whig, and it seemed a forlorn hope for any of his party to seek the overthrow of the opposing organization. But this was just the task which suited Dayton's inclination. In 1837, he was nominated by his party as its candidate for the Council. This placed him at the head of his ticket and he succeeded not only in securing his own election, but that of his fellow candidates. A new field of endeavor was opened to his aspirations and in this arena, he was destined to gain his greatest glory, to win his brightest laurels. He was a young man, untried as a legislator; just thirty years old, he had never been in office. But he at once became the leader of his party in the Legislature, and prominent in every movement in the Council. It soon became patent to thoughtful observers that the proper sphere for a man of Mr. Dayton's consummate abilities was in the domain of politics, and here began a career of almost unexampled activity and brilliant success. Mr. Dayton was a broad-minded patriot, of high resolves and noble aims. He



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never descended to the low arts which too often characterize those who seek political preferment. He never did a mean act; he never sullied his life by baseness.

It was while he was in the Legislature that the Circuit Courts of the various counties were established and the success of the plan was mainly due to his exertions. Alexander C. M. Pennington, a leading lawyer from Essex County, was a member of the Assembly while Dayton was in the Council, and prepared and presented the statute which provided for the adoption of this admirable system. Mr. Pennington was an acute-minded lawyer and fully competent to prepare such a law as was required for so radical a change in the jurisprudence of the State. Mr. Dayton was Chairman of the Judiciary Committee of the Council and was charged with the duty of reporting and acting on the new statute. Doubtless it received his strictest scrutiny and, in all probability, was improved by his additions and amendments. He heartily approved of it and it became the law of the land. The result has fully demonstrated the correctness of Mr. Dayton's judgment. The Courts of Common Pleas have been almost entirely abandoned by suitors who were obliged to seek redress by resort to civil suits. The Circuit Courts have received the fullest confidence of lawyers and their clients; even the Common Pleas have been remodeled and lawyers of standing and learning placed at their head. One defect in the admirable system exists: The judges who are assigned to the larger circuits, with their duties in the Supreme Court and in the Court of Errors and Appeals, added to those of the County Circuits, are overworked men.

In 1838, while a member of the Council, Mr. Dayton was made an Associate Justice of the Supreme Court. He was then just thirty one; but soon manifested, notwithstanding his youth, his fitness for the position. He remained on the bench until February 18, 1841, nearly three years, having been elected on the 28th of February, 1838; then, he resigned and returned to his profession. The moving cause of his resignation was understood to be the fact that the salary of the office was not sufficient to meet the wants of his family. In the succeeding year, the death of Mr. Southard, then Senator, opened a door to the ambition of Mr. Dayton. He was commissioned to the vacant office by William Pennington, then governor, in the interim of the Legislature, and was elected by that body in its following session, to fill the vacancy. He entered the Senate at a critical period in the history of

the Whig party, to which he was attached and which had elevated him to office. General Harrison, who had been inaugurated in 1841, as President, had died and John Tyler had succeeded him. It was soon evident that Tyler intended to prove a traitor to the party which had elected him Vice President and Mr. Dayton found himself almost immediately obliged to grapple with the embarrassments environing his party in consequence of this defection. It was no easy task; and the new Senator was at once plunged into difficulties which were intensified by the treason of the Vice President and the very evident fact that the Whig party was fast losing its hold upon the power which the election of Harrison seemed to assure to it. His situation was most embarrassing; but his cool head, his equable temperament, his calm foresight and great ability enabled him to avoid the great dangers which would certainly have overwhelmed a more inferior man. He spoke but seldom, only when occasion demanded and then demonstrated that though so silent, he was equal to any emergency. He very soon impressed himself upon his fellow senators and was placed upon important committees. At the formation of the Republican party he took an active part in shaping and moulding its policy and became influential in that organization. In 1856, he was nominated as Vice President, with General Fremont as President. The ticket was not favorably received by the thoughtful men of that party, many of whom were of the opinion that it would have been much better if the names had been reversed. No one, however, whose judgment was worth anything, thought that the ticket would be successful; and it was not, but through no fault of the nominee for Vice President.

His term of Senator expired in 1851 and the Democratic party being then in power, he was succeeded by Commodore Robert F. Stockton. While in the Senate, he measured swords with some of the greatest men in that body and did not hesitate to try his strength even with Daniel Webster. He lost nothing by the inevitable comparison between his efforts and those made by his antagonists in the debates.

In 1857, he was appointed Attorney General by Governor Newell, his competitors for the appointment being Frederick T. Frelinghuysen, afterward Secretary of State, and Cortlandt Parker, one of the most distinguished lawyers the State ever produced.

In 1860, Lincoln was elected President and the eyes of every New Jersey Republican turned toward Senator Dayton as a proper member of his Cabinet. Lincoln would have appointed him, but for the reason

that he believed that under the circumstances other States than New Jersey had greater claims upon him in the selection of the members of his political family. But he determined to appoint him to such a prominent position as would show his appreciation of his merits and abilities. To use his own words; "I then thought of the French mission and wondered if that would not suit him. I have put my foot down and will not be moved. I shall offer that place to Mr. Dayton." He did offer the place to Mr. Dayton; it was accepted, and he found himself in the possession of the most important and embarrassing embassy in the gift of the President. Paris swarmed with emissaries of the Confederacy; the Emperor of the French was more than half inclined to favor the Southern government and to recognize it as an independent sovereignty. He had already acknowledged that the Confederacy was entitled to the rights of belligerents.

With consummate tact and with far-reaching foresight, Mr. Dayton thwarted the plans of the Southerners and finally succeeded in inducing the French Government to adopt a policy which materially crippled the Confederacy and aided greatly in forcing the result.

Mr. Dayton lived long enough in Paris to secure the confidence and respect of the Emperor and of his court and to render the most inestimable services to his own government. He died very suddenly, on the first day of December, 1864, before the war closed, but at a time when it required very little sagacity to understand that the end of the great struggle was near.

Mr. Dayton's service on the bench was short; it extended over a period of only three years. But, it was long enough to teach his fellow judges and the members of the bar that he was a safe judge, to whom the interests of suitors might be intrusted with perfect safety. He was not a learned lawyer; he rather trusted to the strong common sense of his nature for aid, than to the learning which could be obtained only from study. Still he was sufficiently acquainted with the principles of law gained from books to equip him for the performance of his duties as judge. He had the uncommon faculty of seizing the salient points in a cause and of using them with great ability in reaching a conclusion. He disdained technicalities and refused to be governed entirely by mere forms. His broad-minded and capacious intellect must secure some fact, some principle, in a cause submitted to him, worthy of his observation. He was dignified and impartial, easy of access, pleasant and agreeable to all who approached him. Few citizens

ever filled a higher place in the respect and admiration of his native State than did William Lewis Dayton.

Daniel Elmer succeeded, by the appointment of the joint meeting, to the position vacated by the resignation of William L. Dayton. He came from one of the most influential families of Cumberland County where numerous branches of that family are still to be found. He was the fifth Daniel, in regular descent from the first of that name who emigrated to New Jersey from Connecticut early in the eighteenth century and became pastor of a Presbyterian Church at Cohansey. Other members of the family were distinguished as patriots in the Revolutionary army. It is claimed that the first settler in this country was a descendant of the Aylmer who was a tutor to Lady Jane Grey, afterward Bishop of London, who changed the name to Elmer.

Daniel Elmer was born in 1784, at Bridgeton, in Cumberland County. His father, who was in very moderate circumstances, died when his son was only eight years old, and young Elmer was obliged to struggle for his livelihood. Fortunately he found a generous friend in his grand-uncle, Dr. Ebenezer Elmer, of Revolutionary fame, who provided for his young relative, but could not give him all the advantages of a collegiate life. His education was such as he could acquire in the common schools of his time, but his natural activity and industry enabled him to obtain by study the necessary equipment for his profession. He was employed in the clerk's office of the county while he pursued his studies in the office of General Giles of Bridgeton, who was not only clerk of the courts, but also a practicing attorney. The young student lost nothing by this experience; his service in the clerk's office made him acquainted with the routine of the practice and brought him in contact with citizens from all parts of the county. In this way, Mr. Elmer was enabled to secure a large part of his clientage, after he was licensed. He finished his studies in 1805, after a course of five years, then required by the rules of the Supreme Court. In 1808, he received his counsellor's license, and in 1828, was made a sergeant-at-law. The removal of John Moore White to Woodbury was of material service to Mr. Elmer, in his practice. He, himself, at one time, contemplated a removal to another field; but, fortunately for his future, he relinquished the idea and remained at Bridgeton, where he lived all his life. He very soon obtained a large practice, but it was not of a character greatly to extend his knowledge of the abstruser principles of the law. His business was largely that of a collection lawyer and his studies

were necessarily confined to such cases as he was compelled to try, arising from that character of business. He was not a well-read lawyer, in the acceptation of that phrase as applied to the knowledge of legal principles gained from general study. He examined all the cases within his reach applicable to any suit he might have in hand. This, of course, did not fit him to grapple with every question which might meet a judge in the discharge of the varied duties of his office, but it did prepare him admirably for any case in which the principles of mercantile law were involved. In 1841, he was made an Associate Justice of the Supreme Court in place of Judge Dayton. He was not a candidate for the position; but he was a Whig in politics, and that party was in power. Daniel Elmer was a man of influence and a respectable lawyer; it was shrewdly surmised at the time, that political reasons entered into the action of the Legislature which elevated him to the bench. It ought, however, be said that he was not a politician, scheming for office. He took the position rather reluctantly, for more reasons than one; one of which, perhaps, was the consciousness that his training at the bar had not fitted him for the full performance of the duties of judge. He certainly did not come up to the requirements of the position, but made a very respectable officer. His opinions, while not evincing any great learning, are marked by good sense and sound reasoning.

His ability as a lawyer and a judge was fully tested in the trial of Singleton Mercer, who was indicted for slaying Hutchinson Heberton. The offence was committed on the ferry boat plying between Philadelphia and Camden. Heberton was charged by Mercer with having seduced his sister and was murdered in revenge for the wrong. The trial created intense excitement; Mercer was defended by the ablest counsel and public sentiment was strongly in favor of the defendant. Judge Elmer presided in the Oyer and Terminer, assisted by lay judges. He soon ascertained that the feeling which so generally pervaded the community had reached his associates on the bench. The defendant was acquitted, notwithstanding a strong charge from the head of the court.

In 1844, the Constitutional Convention was convened and Judge Elmer was honored by being sent as a delegate from Cumberland County. After the Convention had finished its labors, he was obliged, in consequence of failing health, to resign his office as judge. His great activity of life induced an attack of apoplexy from which he never recovered. He died in 1848, universally respected.

James Schureman Nevius became an Associate Justice in 1838. He was born in Somerset County, in 1796. His ancestry, both paternal and maternal, were to be found among the patriots of the Revolution. He graduated from Princeton College, in 1816, was licensed as an attorney in 1819, as a counsellor in 1823, and was appointed sergeant-at-law, in 1837. After he was admitted to the bar, he resided and practiced his profession at New Brunswick. At the death of Judge Thomas C. Ryerson, he was elected an Associate Justice, which position he held for fourteen years. In 1852, the office was in the gift of the Governor, under the new Constitution. That officer, when Judge Nevius's term expired, was opposed to him in politics; and, according to the custom of those days, the Governor selected a gentleman of his own political party to fill the vacancy. Fortunately for the jurisprudence of the State, that custom is not always followed; and to this, in some measure, is due the high character of the judiciary of New Jersey. Judge Nevius was a highly respectable judge and many of his opinions were very strong. There was, however, no judge on the bench so often found dissenting from the other judges and the bar did not place the fullest confidence in his decisions. He had the honesty to avow, and sometimes very pointedly and strongly to express, his adverse sentiments.

He will always be remembered by the few who now survive his time and recollect him, as the fun-loving judge, full of wit, quick at repartee, abounding in anecdote and always the life of any circle, wherever he might be found. His love of humor sometimes placed him in most unpleasant positions. This story is told of him: He was on a North River steamboat and stepped up to the office to pay his fare. Between him and the captain stood, as he supposed, a well-known friend, with his back toward him. His supposed friend had laid his pocket book in front of him while he was settling for his fare. The Judge passed his hand over the shoulder of the owner of the pocket book, seized it and quietly passed it behind his own back. His consternation may be imagined, it certainly cannot be described, when the face of an entire stranger was disclosed. Expostulation, explanation and entreaty were all in vain. The stranger demanded that the thief be instantly arrested and held in custody until he could be delivered to the proper authorities for punishment. Fortunately, some mutual friends were present, who, after enjoying the situation at the expense of the practical joker, caught in his own trap, explained mat-

ters, and the judge was released from his embarrassing position, but it is very doubtful whether the lesson learned on this occasion taught him caution. His love of humor never deserted him and nothing delighted him more than to gather with friends and pass away an hour with quirp and jest. With all this love of mirth, he was a man of dignity and could, whenever circumstances required it, preside at a court with the solemnity befitting the high office.

Upon his withdrawal from the bench, Judge Nevius removed to Jersey City and attempted to resume his practice there; but he was not successful. His health soon failed and he died in 1859.

Ira Condict Whitehead was a Morris County man, born near Morristown, April 6, 1798. In early youth he showed a strong bias for literary pursuits. His father was a farmer, of rather moderate means, but, anxious that his son should become a professional man, gave him every possible advantage. He was prepared for college at the Academy at Morristown, under the care of an able and successful teacher whose memory still survives in that town as a most distinguished educator. Mr. Whitehead entered the junior class at Princeton College, in 1814 and graduated in 1816, with a creditable record. Among his classmates were some very distinguished men,—McDowell, Governor of Virginia; Judge Nevius, of the New Jersey Supreme Court, already noticed; Senator Butler, of the United States Senate; Bishop McIlvaine, of Ohio; President McLean, of Princeton College, and others. After graduating, Mr. Whitehead taught school for two years, part of that time in the Academy where he, himself, had been a pupil. He then entered the office of Joseph C. Hornblower, afterward Chief Justice of New Jersey, and was licensed in 1821 as an attorney, and in 1824, as a counsellor at law. He began the practice of his profession at Schooley's Mountain, having his office in the building called the Heath House, well known as a place of fashionable resort. He remained here for a short time only, perhaps for two or three years, when, at the request of George K. Drake, afterward Associate Justice of the Supreme Court of New Jersey, who was then in full practice at Morristown, he removed to that place and entered into partnership with that gentleman. From that time until his death he continued to be a resident of Morristown.

The partnership with Mr. Drake did not continue long. Mr. Drake was appointed justice in 1826, when, of course, the business connection between the two gentlemen ceased. Mr. Whitehead very soon

gained the respect and confidence of the community by his great integrity and secured a very large clientage by strict attention to business and devotion to the interest of his clients. He had no particular specialty in his practice,—country lawyers could not become specialists,—but his services were very often required by his numerous clients, as trustee, executor and guardian. For these positions he was peculiarly equipped, being a careful, prudent man, of great business capacity and thoroughly trustworthy. On the third day of November, 1841, the term of Judge Ford expired and Mr. Whitehead was elected to fill the vacancy on the Supreme Court Bench. He assumed the duties of the position at the time when there was an array of the ablest and most brilliant lawyers that ever practiced at the bar of New Jersey; in fact, no abler lawyers ever existed anywhere. These men appeared before him and argued their causes. In many respects, this was an advantage to the new judge. He had the benefit of their wisdom, of their experience and of their great abilities. But it was a severe ordeal for him. He must measure swords with these expert gladiators in the mental arena.

His first experience in a murder trial was a most peculiar and exceedingly trying one,—the case of Thomas Marsh, already noticed in the sketch of Chief Justice Hornblower. The counsel for the prisoner—a father and son—were two of the ablest men at the Essex County bar. The father had been an opposing candidate for the nomination of Judge, and was very much exasperated by his defeat. He was an impulsive, high-spirited, quick-tempered man. Influenced by his zeal for his client and, perhaps, actuated by other motives, he gave way to his passion and indulged in a course of conduct which obliged the Judge to order him into arrest for contempt of court. No one regretted the circumstance more than did the offending lawyer, for with all his faults, he was a high-toned, honorable man. The forbearance, the dignity and Christian bearing of Judge Whitehead were remarkable and, under the circumstances, it was a most trying ordeal. Before the close of the trial and during the summing up of the testimony by the senior counsel of the prisoner, he manifested unmistakable evidence of aberration of mind. This placed the Judge in the most delicate position. The manner in which, through the whole trial, he had met the difficulties of the case had elicited universal respect, but here was a new dilemma, to meet which there could have been no possible preparation. It was met, however, in a manner which only increased the admiration of those



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present. Marsh was convicted; the verdict was satisfactory, so far as the guilt of the prisoner was concerned, although the evidence against him was entirely circumstantial. But the Judge was not satisfied. The defendant had not had the benefit of all the appliances for defence which he ought have had and his sense of justice was aroused.

The sound common sense of Judge Whitehead made him a very valuable addition to the bench. His opinions were always carefully prepared after the most patient investigation and research and were always regarded with great respect. The earliest delivered by him was in the case of Den *vs.* Allaire, which was a most important case, involving many intricate and abstruse principles of law. The cause was argued by the most eminent counsel in the country. The opinion of the court, which was unanimous, was delivered by the Judge, and showed an immense amount of labor and a thorough examination of the subject.

All cases presented to Judge Whitehead received the most patient and industrious investigation and his decisions, found in the reports, only serve to increase the respect due to a learned and laborious jurist and impartial judge.

He continued in office only one term; when that expired, the Governor of the State was a Democrat and, although greatly desirous of reappointing Judge Whitehead, yielded to the demands of his party, and a Democrat succeeded.

The Judge returned to his practice in Morristown and met with considerable success, but having secured a competency sufficient for his simple habits of life, finally accepted a seat on the bench of the Common Pleas of Morris County, where he served for one term. He then retired from active practice, confining his business to the care of the many estates of which he was executor and trustee. A few years before his death he suffered from a slight attack of paralysis and finally died of apoplexy, in 1867.

Thomas Preston Carpenter was born in 1804, in Gloucester County, N. J. In 1845, Governor Stratton nominated him for an Associate Justice and he was confirmed by the Senate. The circuit over which he presided was one of the largest and most important in the State. He was an able lawyer and his opinions commanded the respect of the bar. The style of his writing was peculiarly smooth and classical. He was a fine scholar and found time, notwithstanding the onerous duties of his office, to keep himself informed on all the literary topics of his time.

He served but one term, and after that expired, returned to his practice, which became large and remunerative. He died in 1876, perhaps as well known as any other citizen of New Jersey. An extended sketch of him appears on page 15, Part II, of this work.

The Randolph family of New Jersey has been one of the most distinguished and influential in the State. It has given to the country many men who have aided the Republic in times when citizens of wisdom and nerve were needed. Among those who sprung from this race and who have been foremost in the politics and jurisprudence of this State was Joseph F. Randolph, who became an Associate Justice of the Supreme Court, in 1845. He was born in New York City, in 1803, was admitted to the bar, in 1825, and began practice in Monmouth County. He was not a graduate of a college, but hardly needed the culture gained in any university, as he was an enthusiastic student and reader. His father was a clergyman and died just about the time his son was expecting to enter college. By this event he was burdened with the responsibility of caring for others; and his generous nature responded to the call, although it deprived him of a cherished intention.

Early in life his abilities as a lawyer became appreciated and he received, when quite a young man, the appointment of Prosecutor of the Pleas. For six years, from 1837 to 1843, he was a member of Congress. In 1838, when the election of representatives gave rise to the famous "Broad Seal War," he was the only Whig candidate who was certainly elected and consequently took his seat without opposition. In 1844, he became a member of the Constitutional Convention, in which body he was very influential and where he exerted himself to secure as perfect an organic law as possible. In 1845, he was appointed an Associate Justice and was continued in office for one term of seven years. As a lawyer and judge, he was laborious in his search for every point in the cases submitted to him, and his conclusions were generally sound and correct. His opinions were sensible, well reasoned out and the result of an honest and severely industrious search for every principle involved in the cause. His natural literary taste, aided by his studies and reading, was of material use to him in the preparation of his opinions.

In 1855, he was one of those selected by the Legislature to revise the statutes. While on the bench he delivered an opinion in the case of Gough *vs.* Bell, which settled the law in New Jersey on the subject of riparian rights. This opinion was strenuously opposed at the time;

but, it is law at present, and it is believed will remain so for all time to come.

The College of New Jersey offered him an honorary degree, which he declined. This honor was well merited, as Judge Randolph became known as a scholar of more than ordinary merit. After he left the bench he resumed his practice in Trenton with very great success, but finally removed to Jersey City, where he died in March, 1873.

Henry W. Green succeeded Chief Justice Hornblower, in 1846. This eminent jurist has occupied the two highest judicial positions in the courts of New Jersey. He was born near Trenton, in 1804. After receiving the most careful preparation, he entered Princeton College and graduated in 1820, at the unprecedentedly youthful age of sixteen. He was a born lawyer, and in no other profession could he possibly have attained such eminence as he did as Counsellor, Chief Justice and Chancellor. After graduation he entered the office of Charles Ewing, afterward Chief Justice. Very little is known of his life as a student, but it can well be imagined how master and pupil must have been drawn together. The young man was always sedate, sober and studious; his distinguished teacher was the greatest jurist of his time and amply equipped to direct such an inquiring mind as that which he must have found in his youthful scholar. Young Green was an enthusiastic student and delighted to dig and delve in the abstruse questions presented to him in the many cases which came to the office in the extensive practice of Mr. Ewing. His term of scholarship was much longer than was required by the rules of the court, as he did not attain his majority until 1825, and could not have been licensed as an attorney until he was twenty-one years of age. In that year he became an attorney-at-law and three years later, a counsellor. He came to the bar fully equipped to meet all the requirements of his profession, by a sound legal knowledge, and by an intimate acquaintance with the many abstract principles of the science of which he was to become a most brilliant exponent. The courts soon learned that in the young advocate was one who was prepared to grapple with any case submitted to him and his fellow members of the bar feared him as a most formidable antagonist. He shortly became a leading counsellor and advocate at the capital of the State and was employed in almost every cause of importance which came before the courts. His practice was very largely made up of arguments in cases of an appellate character before the highest tribunals of the State. In sub-

mitting his argument, it was remarked by older practitioners, that he never lost sight of any point in the case which in any way aided him or his client and it was once jokingly said of him that in preparing a case for argument on a *certiorari* he would present at least fifteen points, one of which, and perhaps, the last, would be conclusive, and the others not at all tenable, but, that he argued all alike.

He was a Whig of the old school, and his party hoped to strengthen itself by inducing him to become a candidate for office. So, in 1842, he consented to run for the Legislature and was elected by a large majority. But he had no taste for any other life than that of a lawyer, and ever after declined any candidacy for office, except such as was connected with his profession. In 1844, he was made a member of the Constitutional Convention, in which body he exercised a masterful influence and aided in directing and moulding its deliberations. In 1846, the term of office of Chief Justice Hornblower expired and all eyes were turned towards Henry W. Green, as the man, above all others, fitted for the place. He was not a popular man; his manners were austere, and repulsive to many for their severity; he was a moody man, at times genial and condescending, at others, repellant and severe,—so that his appointment was not due to any wave of popular favor. He was eminently fitted for the place of Chief Justice. Not a breath tarnished his fair name; he was of the strictest integrity, a profound lawyer, a learned jurist, of a quick, alert mind, capable of the closest analysis and able to grasp every point involved in a suit, whether counsel referred to it or not. Many an astute lawyer, after arguing a case before the court, imagining that he had exhausted argument, was quite astonished and somewhat mortified that he had not discovered points which the Chief Justice, in his emphatic manner, would state in his opinion. His decisions were regarded with great favor by the bar, were rarely overruled by an appellate court and have been frequently quoted with commendation by English courts. His language was clear and lucid and of the purest English; his sentences compact and forceful. His charges to juries were models, easily understood and rarely antagonized.

He remained in office for fourteen years, two full terms, and then, Governor Olden, one of the wisest men who ever occupied the gubernatorial chair in New Jersey, elevated him to the position of Chancellor. He filled the Chancellor's place for nearly a full term, when ill health forced him to resign and he died in 1876.

He was of remarkable and dignified presence, full six feet in height, erect and finely formed. He was not calculated to attract the crowd; his nature was moulded in too noble a form to delight in the society of any other than the intellectual and cultured. He rarely unbent himself from his dignity and reserve, except with a few favored intimates. But he was a grand man, of the noblest qualities, both mental and physical; he heeded the demands of the community upon him as a citizen and was earnest in many good works, especially those of a substantial, enduring nature. The cause of education received firm and decided support from him in many directions. He was largely interested in the success and in the affairs of his Alma Mater and in the Princeton Theological Seminary. For many years he was a Trustee of Princeton College and for a long time previous to his death, had been President of the Board of Managers of the Seminary.

Elias Boudinot Dayton Ogden was the son of Aaron Ogden, who, in his time, was one of the most prominent citizens of New Jersey, filling an important office in the Revolutionary army and after the war was over, becoming a lawyer of large practice, a United States Senator, then, Governor and Chancellor, besides occupying many other less important positions. His son, who became an Associate Justice and who was generally known as Dayton Ogden, was born at Elizabeth Town, as it was then called, in 1800. He graduated from Princeton at the age of nineteen and immediately began the study of the law. He was licensed as an attorney, in 1824, as a counsellor, in 1829 and was made sergeant at-law in 1837, being the last lawyer in New Jersey who ever received that appointment. When he was licensed, he selected Paterson as the place where he purposed to practice and immediately opened an office at that place. Paterson was then a small, struggling town on the Passaic River, near the falls on that stream. It was fast rising into importance from the growing number of its factories. Young Ogden found many competitors for public favor, but soon placed himself among the best advocates and secured a large clientage. Paterson was then included in Essex County and the lawyers there resident were obliged to go to Newark, the county seat, to attend court. Very soon after receiving his counsellor's license young Ogden was appointed Prosecutor of the Pleas, the most important office of the kind in the State. He performed the duties of the position with great assiduity and evinced talents of more than ordinary character. The criminal business of the county was very large and required a great

part of the time of the Prosecutor for the proper discharge of his duties. It necessarily obliged him to be at Newark four times each year, away from his office and ordinary business. But while Mr. Ogden never failed in the performance of his whole duty, as Counsel of the State, he succeeded in retaining all of his private practice; his numerous clients never complained of his inattention to their interests. He was a most industrious and careful practitioner and ever responsive to the calls of present duty. He filled the office of Prosecutor for two terms, with great ability.

The political party with which he affiliated very early recognized his abilities and required his services in the Legislature, to which he was twice elected.

In 1844, when the best talent in the State was needed and was selected from both political parties for the Constitutional Convention, he was made a member of that important body.

In 1848, he was appointed an Associate Justice and was reappointed in 1855. These appointments were made by governors of his own political faith; when his second term expired, the executive of the State was politically his opponent, but that governor was Charles S. Olden. He honored himself and Judge Ogden by breaking through the trammels which had hitherto restricted the actions of the governors of New Jersey and limited them in the selection of judges to men of their own party, and he reappointed Judge Ogden.

Judge Ogden was not a man of commanding talents, nor was he a genius; but he was a man of good sound judgment and of sterling common sense; a painstaking, conscientious judge; genial in his intercourse with the members of the bar and all who approached him, and during his long term of office, secured the confidence and respect of the whole community. When his last term expired, he removed to Elizabeth and occupied the homestead of his father, Gov. Aaron Ogden, where he was born and where he died, in 1865.

His opinions were sensible, prepared with care and were evidently the result of a full examination. Among them was one, in which he denied the right of judges of a State court to interfere for the release of a prisoner held by the judgment of a Federal court.

Lucius Q. C. Elmer, was the son of Ebenezer Elmer, a surgeon in the Revolutionary army and came of the very best stock in Southern New Jersey. He was born in 1793, at Bridgeton, Cumberland County, where he always resided. He was educated at the University of Penn-

sylvania. After leaving that educational institution, he entered the office of his relative, Daniel Elmer, who afterward became Associate Justice of whom notice has already been given. He was licensed in 1815, as an attorney and as a counsellor, in 1818. He began practice at his native place and it soon became large and extended into the adjacent counties. It was considered, in his day, almost the duty of every young lawyer to go to the Legislature. He was not an exception to this rule, but became a member of the Lower House for four successive terms, from 1820 to 1823, and during the latter year was speaker of the Assembly. In 1824, he became Prosecutor of the Pleas for his native county, and several times performed the duties of that office in Cape May County. During that time he was also District Attorney of the United States for New Jersey. There was very little business requiring his attention in this last-named office. He, himself, in speaking of the court, says that he and the son of the Judge, who was the Clerk, together, were unable to persuade the Judge to keep the court open more than a day each term. In 1843, he was elected to Congress and served one term. In 1850, he was made Attorney General of the State, but held the office only two years, as, in 1852, he was appointed an Associate Justice, which position he held for fifteen years. He was a respectable judge, not remarkable for great breadth of mind in his opinions, but they always showed care and research and his course as Judge commanded universal respect for his conscientious discharge of the duties of his office. His opinions, though favorably received, were not considered as reliable as those of some of his fellow judges. He was a public spirited man and supported many of the philanthropical projects of the day. The crowning feature of his character was his strong religious bias, which pervaded his whole life and was carried by him into all its relations.

He was quite an author, contributing occasionally to the literature of the New Jersey Historical Society, of which he was for many years an enthusiastic member. He compiled a book of legal forms which was largely used by the profession, and also made a valuable digest of the laws of New Jersey. This work has reached its fourth edition; but the later editions have been called "Nixon's Digest" having received many additions from his son-in-law, the Hon. John T. Nixon. He wrote a history of Cumberland County; but, the most important of his published works, he called "The Constitution and Government of the Province and State of New Jersey, with biographical Sketches of its Governors from 1776 to 1845."

He received the degree of LL.D. from Princeton College, in 1865. In 1869, he retired from active life and died at Bridgeton, well advanced in years.

Stacy Gardiner Potts was a Jerseyman by descent through several generations from original settlers in the country in the seventeenth century. The first immigrant of the name, was a Quaker from England, with whom came Mahlon Stacy. The two families intermarried, and thus, the name of Stacy found its way into the Potts family. Mahlon Stacy was a large landholder and bought several hundred acres on both sides of the Assanpink and partly fronting on the Delaware. In 1714, he sold this land to Col. William Trent, for whom Trenton was named. The grandfather of Judge Potts, also called Stacy, owned the house where Col. Rall, commander of the Hessians quartered in Trenton, was living at the time of the battle there, December, 1776, and where he died. This house was standing a few years ago—a quaint two-story stone edifice, with small windows and double front door.

Stacy G. Potts was born in 1799, at Harrisburg, in Pennsylvania. His father was the owner of extensive tracts of land in that State, but his heart seemed turned toward New Jersey. When young Stacy was only nine years old, he and his father travelled, on foot, to Trenton. The lad was pleased with the place and declared that he was determined to spend his days there. He was taken by his grandfather, who was Mayor of the town, and educated by him. The youth early showed an inclination for literary studies and indulged his taste to the utmost by the use of such appliances as were afforded him. He was apprenticed to a printer, by some means obtained access to a bookstore and so indulged his thirst for reading. He also became a member of a debating club and thus improved his style as a speaker. In 1821 he became editor of a newspaper published at Trenton. By these various means, he acquired an excellent literary style and remedied to a great degree the defects of his early education. While engaged in his editorial labors, he entered the office of Richard Stockton, with whom he remained a short time and then became a student-at-law with Garret D. Wall, with whom he continued his studies until he was licensed, in 1827, as an attorney. In 1830, he became a counsellor. Following the custom so well observed, at that time, by young attorneys, he became a candidate for the Legislature, was elected and, at the expiration of his first term, re-elected. He seems to have been satisfied with these political honors, as he never again sought office of that kind. In 1831,



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he was appointed Clerk of the Court of Chancery. This had not been a very lucrative position in the hands of his predecessors; but Mr. Potts not only elevated the office in character, but made it remunerative. He held this place for ten years. During the time he was clerk, he compiled an excellent book of chancery practice, much needed at the time and suited to the then present state of equity procedure. It is, however, superseded by another book more fitted for the improved state of the practice. Although not a graduate of any college, Princeton conferred upon him the honorary degree of A. M., in 1844.

The statutes of the State were badly arranged in the Digests which had been published, and in 1845, he was appointed, with Peter D. Vroom, Henry W. Green and William L. Dayton, Commissioner to revise the laws. The gentlemen with whom he was associated were at the front of their profession and Mr. Potts would not have been made one of this board, if he were not fitted for the task. He was intrusted by his fellow commissioners with the most laborious and, by no means the least important, duties assigned to them. In 1852, he was nominated Justice of the Supreme Court, which position he held for one term, and was assigned to a circuit which was one of the largest and most important in the State Judge Potts's opportunities for acquiring a practical preparation for performing some of the duties of his new office had been few. He had very little equipment for the criminal jurisprudence committed to him; but, he was quick to learn and his mental force enabled him, almost intuitively, to master the abstruser legal principles of the causes which came before him. His plain, practical common-sense was of very great service to him and he soon became an accomplished jurist. His opinions were marked by his strong bias for justice. Perhaps his ten years' constant intercourse with equity jurisprudence led him in this direction. It is evident that his desire was to learn what the law ought to be, rather than know what other judges had held, in similar cases. He was a simple-minded man, always looking straightforward for a result which would do justice to all, and seeking to find what was right, in the cause before him.

At the close of his term, he was quite enfeebled in health, and, in fact, had never been an entirely healthy man. He then withdrew from active life, to enjoy the comfort and solace to be derived from books, of whose society he was ever fond. He was a kind-hearted, benevolent man, philanthropic in his nature, and interesting himself in charitable institutions. He took a deep interest in the common schools

of the State and, at one time, drafted a law, which was passed by the Legislature, revolutionizing the school system then in existence. He died at Trenton, universally regretted, in 1865, after a protracted illness.

Daniel Haines, during his lifetime, filled many important positions in the political and judicial history of New Jersey. He was born in the City of New York, in 1801, and came from ancestry known for its sufferings in the War of the Revolution. Stephen Haines, his grandfather, had made himself obnoxious to the British, by his patriotic services in the cause of the colonies. One dark night, some English soldiers led by Tory refugees from Staten Island, surrounded his house, made him prisoner, carried him to New York and confined him in the infamous "Sugar House." After the battle of Monmouth he was exchanged for a British officer. Elias Haines, the father of Daniel, was then a lad of eleven years of age. His mother, Mary Ogden, was the daughter of Robert Ogden 3d and the niece of General Matthias Ogden and Gov. Aaron Ogden, all three of whom were well known patriots of the Revolution.

He was educated at Princeton College, where he graduated in 1820 and, immediately after graduation, entered the office of Thomas C. Ryerson, then a leading lawyer at Newton, Sussex County, afterward an Associate Justice. He was licensed as attorney in 1823, as a counsellor in 1826, and was made a sergeant in 1837. He began practice at Hamburg, Sussex County, in the midst of a large agricultural community, but in a small country settlement. Here he secured a clientage of the very best men of the county, who respected him for his integrity and admired him for his sound, sensible methods of business.

Political parties, in the early days of his practice, were not equally divided, in Sussex County; the voters of that county were, overwhelmingly, friends of General Jackson, one or two townships voting solidly for him. One of these two townships was that in which young Haines resided. He shared in the universal enthusiasm and strongly espoused the chieftain's cause. In 1839, he was brought prominently forward as a candidate for the position of member of the Council, as the State Senate was then called. He was rather averse from accepting the nomination, but it was deemed important that a man of talent and influence should represent the county, as a subject of great importance to the community was to be agitated before the Legislature. He was nominated and, of course, elected by a very large majority. This

election was the means of bringing forward the young and obscure lawyer from his unknown home in the mountains of Sussex and eventually of landing him in the governor's chair—the only instance of the kind known in the State. In 1840, the "Broad Seal War," already referred to, was waged in New Jersey. The very best minds in the State were enlisted in the argument of the Whig party, which sustained the Governor, and young Haines was obliged to measure weapons with these men, practiced and skilled in the mental arena. He lost nothing by the contest and was not forgotten by his party. In 1843, the Democrats obtained the ascendancy, and he was elected Governor. While the result of this election was greatly due to his character and talents, it is very doubtful whether he would have been successful if the Whig party had not been divided. Be that as it may, he was elected and elected, too, because he was a man of integrity and ability. Then, the office of Governor carried with it that of Chancellor and the incumbent was elected by the Legislature, from year to year. He was continued in office until the inauguration of his successor, and would have been re-nominated, after the passage of the new Constitution, had he not declined. While he was Governor, he strongly urged, in messages and by his personal influence, two very important measures,—one, a rearrangement of the common school system, so that it could be systematized and receive a permanent support; the other, a constitutional convention. He was successful in the convention, and his advice and recommendation for the other measure, although for a time rejected, took root and, in due season, were followed. In 1847, he accepted a nomination for Governor, then elective, under the new Constitution, by the people, and for a term of three years. The position was now removed from the judiciary and its holder obliged to confine himself exclusively to the performance of the duties of the executive.

Governor Haines's opinions, as Chancellor, fill one volume of equity reports, were prepared with the greatest care and regarded with high respect.

At the expiration of his term of office as Governor, when last elected, he returned to Hamburg and resumed the practice of the law with very great success.

In 1852, he was nominated by the Governor as an Associate Justice, was confirmed by the Senate and took his seat on the bench in the month of November, of that year. He retained the office for two full terms, of seven years each. He brought to the position great experi-

ence as a trial lawyer, having been generally employed in every important cause tried in Sussex County, while practicing at the courts of that county; a skilled knowledge in the common law science of pleading, a learning which was strengthened by years of ardent and unremitting study; a stern determination to do his whole duty as a judge without fear or favor; a strict integrity; a character untarnished by a charge of fault; a kind and courteous manner; a willingness to listen and a broad-minded appreciation of right and wrong. No judge ever sat on the bench who had less of prejudice in his composition, or who was freer from passion.

He filled many positions of prominence not connected with either political or judicial affairs. He was appointed a commissioner to select a site for an insane asylum and was a member of the first board of managers of that institution; he was also appointed a commissioner to select a site for a home for disabled soldiers and was one of the first trustees of that organization. When the Legislature established a reform school for juvenile delinquents, he was selected as one of the Trustees, was the first President of the Board and held that position for many years. He took a great interest in prison reform and was appointed one of the commissioners to examine the systems of State prisons in New Jersey and elsewhere. In 1870, he was sent to Cincinnati as a delegate from New Jersey, by its Governor, to a National Prison Reform Congress. He represented the United States at the International Convention on prison discipline and reform which met in London in 1872, was Vice President of the Convention, and presided over some of its sessions in Middle Temple Hall. While abroad, he received marked attention from English Judges and other distinguished men of different countries. For many years he was a Trustee in Princeton College, He lived to a green and honored old age and died at his home in Hamburg.

If Peter Vredenburgh had been born in New York City, he would have ranked among the Knickerbockers of Gotham. His birth-place was Readington, Hunterdon County, New Jersey, and he came of a goodly German parentage. His father, whose name he bore, was a physician. Young Vredenburgh graduated at Rutgers, in 1826, was licensed as an attorney, in 1829, and began practice at Eatontown, in Monmouth County. This obscure village was too circumscribed for a man of his abilities and he very soon removed to Freehold, the county seat of Monmouth, where he ever after resided. In 1837, five years

after he became counsellor, he was made Prosecutor of the Pleas and was continued for fifteen years in the position. He soon took a high rank in the profession and the leaders of the bar, who, perhaps, were at first disposed to regard the young attorney with some contempt, learned that in the Prosecutor of Monmouth they had an antagonist worthy of their highest respect. His manner of performing the duties of this office of counsel for the State, in criminal cases, not only soon gained him clients, but also the respect and confidence of the commnnity. No man at the bar of New Jersey ever surpassed Mr. Vredenburgh in ability to grasp and understand, almost intuitively, the salient facts in a cause. His power of analysis and of marshalling the testimony of witnesses was wonderful; and if, after fully examining the case, he was satisfied that the defendant was innocent, he not only did not press the case, but declared to judge and jury his honest convictions. But, on the other hand, woe to the defendant whom he believed to be guilty. If he thought the defence was tainted, in any way, by fraud, or was dishonest, he was merciless and no earthly power could turn him from a pursuit, keen and sure of the criminal. He was capable of weaving a web of circumstances around the defendant which ended in a complete and swift overthrow of the best-laid and acutest plans to secure an acquittal. He impressed juries with his entire honesty of purpose and they learned to follow his leadings because they knew that if he were doubtful of guilt, he would plainly and frankly tell them so. In addition to this keen perception of the workings of human nature, he possessed great eloquence; his was the quiet, calm eloquence of power and truth urged before his hearers, who appreciated an honest struggle for the right and were prepared to do what justice demanded. An examination of the reports of decisions in both common law and equity courts will reveal the fact that very soon after he came to the bar in Monmouth, he argued almost every case of importance from that county before the higher tribunals of the State. He left the office of Prosecutor with a character established for great honesty of purpose and as possessing one of the very best legal minds in the State.

In 1855, he was appointed an Associate Justice by Gov. Rodman M. Price, who was opposed to him in politics, but rising superior to the trammels of party, in this instance, selected the very best material he could find to fill the place. At the end of his first term, Governor Olden reappointed him, so that he held the office for fourteen years.

His decisions were regarded as able and held in very high esteem. His power of analyzing human testimony, of reconciling inconsistencies in evidence, of marshaling facts and showing their relation to each other, were never surpassed by any judge. The celebrated Meeker will case gave full evidence of his power of mind in all these directions. This cause occupied the time and attention of the courts of New Jersey for many years. It involved a large amount of property and was fought with the greatest pertinacity. The ablest counsel in the State were employed on one side or the other. The cause came up before the Supreme Court on a motion for a new trial, and its report occupies over one hundred printed pages. Judge Vredenburgh was intrusted by the court with the examination of the evidence in the cause and the work was well done. From the conclusions at which he arrived there was no escape; his deductions were forcible, his logic was irresistible and the reader rises from a perusal of his opinion amazed at his power and astounded at the apparent knowledge the Judge seemed to have of the motives, the wishes, the fraud and chicanery, the untruthfulness or the honesty of the witnesses.

He had a fund of quiet humor, sometimes rising to the height of absolute and pure wit. He rarely exhibited this in any of his utterances on the bench; but, sometimes, could not resist the impulse to break through the dignity of a judge and indulge in his natural propensity A slight touch of this appeared in the decision in a bastardy cause. The putative father, who was the appellant, objected that the Quarter Sessions had seen fit to change the order of Justices and had not either overruled or affirmed. In commenting on this, the Judge remarked: "I find the Justices of Monmouth, in general sessions, in 1795, relieving the township by fining the mother and putative father for the use of the poor, and in two cases, in 1701, varying their order, in one case by adding ten lashes on the bare back for having a white child, and thirty lashes, in the other, for having a mulatto; so that the prosecutor should deem himself fortunate that the session instead of diminishing his fine, had not enlivened the proceedings by inserting some of their old variations."

Judge Vredenburgh was on the bench when the civil war broke out. He was a believer in the Republican party and, of course, supported the war. In Monmouth County, there were many ardent Republicans and some citizens who favored secession. A few fiery patriots, who could not brook any deviation from the strict line of the duty which,

in their opinion, was due to the government, resented some demonstrations in favor of the rebels and proceeded to extremities which were not sanctioned by the law of the land. They presumed on the known political proclivities of the Judge, but soon learned, to their cost, that he was not and would not be swerved from the discharge of his duty by any considerations. In his cool, quiet, but decided and forceful manner, he charged the Grand Jury against these infractions of law, and soon taught the hot-headed patriots that they must obey the law of the land. For this wise and fearless action he was denounced in unmeasured terms by some whose folly ran away with their wisdom; but calmer and soberer second thoughts convinced the thinking community that the Judge was right and he soon stood higher than ever in the confidence and respect of the people.

When his second term expired he resumed the practice of law; but his health soon failed and he was obliged to relinquish his business. His son, who bore his name, an able and courageous young officer, was killed during the war. This terrible loss increased the malady which seemed to be sapping his health. He sought a more genial climate, hoping for restoration, but in vain; he died at St. Augustine, Florida, in 1873.

The Ryerson family has given to the State many distinguished men whose lives have added lustre to the history of New Jersey. Of these, no more honored name is to be found than that of Martin Ryerson. He was the son of the Hon. Thomas C. Ryerson, who has already been noticed. The original ancestor, who settled on Long Island, was called Martin Ryersé, and the name Martin has been uninterruptedly kept up by the family, since his time, but they have long since changed the name to Ryerson. Martin Ryerson, who was an Associate Justice, was born at Hamburg, Sussex County, in 1815. His mother was a daughter of Gov. Aaron Ogden, a hero of Revolutionary times, and he was her eldest son. He received an excellent preparatory education and being a very apt and diligent scholar was enabled to enter Princeton College at a very early age, from which institution he graduated in 1833. He became a student in the office of his father, at Newton, but desiring a more extended opportunity for obtaining a knowledge of the practical part of the profession, he removed to Trenton and became a student in the office of Garret D. Wall, a leading member of the bar in the State and finally finished his studies in the office of Governor Pennington, at Newark. He was licensed as an attorney, in 1836, and as

a counsellor, in 1839. He at once opened an office at Newark and, although finding himself confronted with some most formidable rivals, he was soon in the foremost rank of advocates and secured a numerous and respectable body of clients. He very soon, however, removed to Newton, in his native county, and there practiced his profession with very great success. With the exception of a few years, he resided at Newton, during the rest of his life; those few years while he was justice, he spent in Trenton. In 1849, he was elected to the lower house of the Legislature, at a time when an election to that body was an honor, when men of character and talents were selected for the position. He found there Edward W. Whelpley, who was afterward Chief Justice and who was Speaker of the Assembly. In 1844, he was a member of the Constitutional Convention and aided materially by his wisdom and good judgment in the perfecting of the Constitution prepared by that body. In 1855, he was made an Associate Justice, but he held the position only three years, when he was obliged to resign, in consequence of ill health. In 1873, his reputation as a sound jurist had become national and he was made one of the judges of the Alabama Commission, but, after a service of two years, was obliged to resign from that body. He was often called upon to serve his State in positions where talents of a peculiar order were required, but, in the latter part of his life, when these honors came oftener, was obliged to refuse them all. He died on July 17, 1875, at his residence, in Newton.

When in full practice, it is said that he prepared himself for the trial or argument of a cause by first writing out his adversary's brief and then demolishing it by his own; and those who had an opportunity to judge declared that the opposing brief as it came from his hands for this purpose, was generally better and stronger than the one actually written by his adversary. In the trial of a cause, he was a formidable opponent, and seemed always prepared for any and every point which could be brought against him. His mind was pecularly clear, calm and judicious. No man, probably, ever sat on the bench with a cooler head and a better balanced mind. He was in every sense a model judge. His opinions were always listened to with the greatest respect. If there were any one feature of his mental fabric more prominent than any other, it was his great energy of character. Notwithstanding his continued ill health, he was enabled, through his indomitable energy, to accomplish wonders. His correspondence, especially during the civil war, was enormous; he was not a politician



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in the ordinary sense of that word, but a high-minded, whole-souled patriot, and impelled by his love of country, was constantly devising plans by which to serve the Republic, and these plans were universally acknowledged to be the very best which could be concerted. He was a man of enthusiasm in whatever he undertook and never engaged in any enterprise without first maturely considering all the arguments for and against it. Once having given it the benefit of his support, he threw himself into the matter with all the force of his nature.

Edward W. Whelpley was a Morris County man, born at Morristown, in 1818 and descended from the very best ancestry in New Jersey. His father was William A. Whelpley, a practicing physician of great talent and high character; his mother was a daughter of Gen. John Dodd, of Bloomfield, in Essex County, New Jersey. The Dodd family has given some most remarkable men to New Jersey, in all the ranks of cultured, educated society,—as lawyers, college professors, clergymen, scientists and men of business. It is noted for one characteristic which seems to be inherent in all its members,—a taste and talent for mathematics.

Young Whelpley was prepared for college at the schools in his native place, which were of a very high order, entered Nassau Hall, at Princeton, very early in life and graduated at the age of sixteen. His friends then thought him too young to begin study for any profession and he taught school for about two years, when he entered the office of his uncle, Amzi Dodd, one of the most prominent lawyers in Newark. This relative died before his studentship expired and he finished his studies with Amzi Armstrong, one of the acutest-minded men who ever practiced at the bar of New Jersey. He was licensed as an attorney in 1839, and as a counsellor, in 1842. He first opened an office in Newark, where he remained only a year or two. The Hon. Jacob W. Miller, of Morristown, in 1841, was elected to the Senate of the United States and needing some one to take charge of his large practice, offered Mr. Whelpley a partnership. The offer was accepted and the young attorney at once removed to Morristown, where, almost with a bound, he reached a very high place at the bar. There were then in Morris County some of the brightest legal minds in the State. It would have been very difficult for a young man to have met such astute-minded men and to have held his own against them, had he not been well equipped both by native talent and by

study; but young Whelpley was equal to the exigencies of his position and was able to cope successfully with his older and more experienced brethren.

It was not long before his fellow citizens, appreciating his worth and fully understanding what an addition he would make to the law-making power of the State, called him from his practice to the duties of a legislator. He had given them a signal evidence of his ability in the direction of political affairs. He was a politician, but in the best signification of that word and took a deep interest in the politics of the Republic, keeping himself informed on all the stirring questions of the day.

A large public meeting of the adherents of the political party to which he was opposed was attended by him. The principal speaker was a gentleman older than Mr. Whelpley and a man of large mental capacity who afterward rose to one of the highest judicial positions in New Jersey. He was rather profuse in his challenges for contradiction to his statements and Mr. Whelpley took advantage of the speaker's defiance and propounded several questions to him. After a few interruptions of this kind, the orator intimated that his questioner should have an opportunity, after he had finished, to reply. At the close of his speech, he gracefully turned to Mr. Whelpley and said: "Now, sir, if you wish, you can be heard." The circumstances and the occasion impelled a reply. With pale cheeks and compressed lips, but with blazing eyes, he ascended the platform. His opponent was too much of a gentleman to permit any interruption, or there might have been trouble. Fortunately for Mr. Whelpley, there were some citizens present of his own way of thinking, who sustained him by voice and cheers. At first, they were dismayed, somewhat fearful that the young man could not successfully meet the arguments of his shrewd and talented antagonist. But he was not long on the platform, before both friend and foe were convinced that he was master of his subject. The result was that his effort was of such a character that the meeting dispersed overwhelmed by the arguments of the man thus unexpectedly thrust upon it, and young Whelpley became the acknowledged leader of his own party in the county. He was eagerly sought for as a speaker at all important meetings of the party to which he was attached and so soon as the proper opportunity came, was nominated, in 1848, a member of the Assembly from Morris County. He served twice in this responsible position, being elected Speaker during his

second term, but never again became a candidate for political honors, applying himseif diligently and resolutely to his profession, in which he became eminent and very successful.

In 1858, Martin Ryerson resigned his office of Associate Justice and the Governor selected Mr. Whelpley to fill the vacancy. This selection was acknowledged by all to be exceedingly proper and one of the best that could be made. He held the position until 1861, when Henry W. Green, then Chief Justice, was made Chancellor, and Judge Whelpley was selected as the head of the court, to succeed Chancellor Green. Very soon after he was raised to this responsible post, he was seized with that terrible malady, Bright's disease, from which he never recovered. He, however, continued to discharge the duties of the high office to which he was so recently elected, until about two months before his death. In the month of February, 1864, in the prime of his manhood, in his forty-sixth year, he died, after the most intense suffering, calmly and bravely meeting his end, the approach of which he had known for months.

After this brief and imperfect sketch, it is well to pause a moment and think of his shining virtues, his great intellect, his many-sided character and his noble nature. View him from any standpoint, as a man, as a citizen, as a lawyer or as a judge, he was admirable.

He was in every respect a great lawyer and possessed nearly, if not quite, all the characteristics of a consummate jurist. He was a clear thinker, of a cool, dispassionate judgment, with a power of analysis which enabled him to grasp all the facts submitted in any case, giving them their due weight and their appropriate relations. He had an acute and intuitive perception of the principles of legal science, which never failed him and a perfect control of himself which kept him entirely free from any prejudice and forced every faculty of his nature to submit to intellectual leadership. His habits of close thought and logical reasoning gave him a great mental grasp, which enabled him to gather up all the legal principles involved in the cases before him and apply those principles with unerring effect. His arguments were compact, lucid and convincing. He had strengthened all these mental gifts by severe study and intellectual training nor had he disdained the lighter studies found outside of his profession.

In addressing juries, he seized every salient fact in evidence, marshalled all the testimony so that it was presented, connected in all its parts, to the mental vision of jurors with such irresistible vigor that

they were forced to admit its power. He was a great orator, not dependent upon grace of delivery, magnetic voice and gestures; but his diction was admirable, his words well selected, always appropriate never redundant; his style forcible; rarely impassioned; but he was able, if he chose, to rise to great heights of eloquence. He met the requirements of the intellect and of the judgment and never stormed the heart with appeals for sympathy. He was always listened to by jurors· they could not help listening,—he commanded the attention, even of the dullest of them. But, it was before the bench that he shone the brightest and it was in that arena that he won his highest renown. The judges listened to him with the profoundest respect and never failed to award him their greatest admiration, even if they did not agree with him.

In two cases before the Court of Errors, the highest appellate court in the State, he accomplished what no other lawyer, before his time or since, has ever been able to do. In both cases, he carried his appeals by inducing the lay members to vote with him and overrule the law judges. One of these cases was so interesting and peculiar that it deserves a passing notice. A mortgagee found it necessary to use his mortgagor as a witness in court. Under the old common law then in force, the mortgagor could not be used as such witness if he were pecuniarily interested in the event of the suit; so, a release of the fullest character was executed under seal, and delivered to the mortgagor. The bond and mortgage were assigned and a foreclosure begun in the Court of Chancery. The mortgagor pleaded the release and the Chancellor held that the assignee of the mortgagee could not go behind that instrument; that it was a perfect answer to the foreclosure and that the bill must be dismissed. The complainant appealed and on the decision five of the lay judges voted to reverse the Chancellor, overruling the law judges, and the decree dismissing the bill was reversed.

He had some characteristics as a practicing lawyer, which deserve notice. He was always fair in his treatment of his brethren at the bar. No technicalities were ever resorted to by him, to the personal disadvantage of other attorneys; he never lost sight of the rights of his clients nor of his duty to them; but, he scorned to secure these rights by doing an injustice. He never favored a litigious suitor; he honored his profession too highly, loved it too well, to make it, or its appliances, subservient to the malice, or to the freaks of those who sought his services. In the conduct of causes, he did his whole duty to his clients,

but never by any unfair means. If he could succeed only by a resort to measures which had even the semblance of unfairness he would rather suffer defeat than be successful. As a counsellor, he was wise, prudent and honest. He never urged a client to litigate doubtful claims.

He was ambitious for judicial honors and when they came to him, they found him ready to face the responsibilities of the position, because he knew what was in him and appreciated his own capabilities and knew that he was fully prepared. He was equipped by study, by severe thought, by constant discipline and by a training of mind and heart which fitted him for the place. He was a born judge and by his mental constitution and moral attributes was fitted for the place; but ever made his heart subservient to his mind. His judgments were based upon results reached through his intellectual efforts, and yet, no man had a higher appreciation or a keener intuition of the demands of true morality and of that high-toned moral sense which should characterize the judge, in all his decisions. Above all other considerations this question most influenced him in all his judicial acts: Is it right?

His personal appearance was imposing; he was full six feet in height, with clear cut-features, a full dark eye, dignified in manners, but approachable to all. While so intense a student of profound legal principles, he was an eager reader of general literature and kept himself fully abreast with all the topics interesting to such a mind as he possessed. His memory, which had an iron grasp, enabled him to retain all that he studied, worth remembering.

When death came and struck down this shining mark, the citizens of the State, of all classes, were moved with one common sorrow; the great men of New Jersey crowded to his funeral and surrounded his bier with grief-stricken hearts. In token of their respect, the courts adjourned their sessions, after the unanimous passage of resolutions embodying the highest encomiums of the deceased judge; the Legislature, in both its branches, attested by resolutions, their appreciation of his worth and appointed special committees to attend the funeral. By one common consent, it was acknowledged that a great man had fallen.

William S. Clawson was elected an Associate Justice, in 1859, but was in office less than two years, so that his opportunities for the display of his abilities as a judge were few and very little can be recorded of him.

He was born in 1816, at Woodstown, New Jersey, where his father was a distinguished physician for many years. His early education was gained in the schools of his native village, but he was prepared for a collegiate course, at Lawrenceville. He entered the college at Newark, in Delaware, where he remained for two years and then joined the junior class in Princeton and graduated in 1838. After graduation, he became a student-at-law in the office of Francis L. Macculough, one of the leading lawyers of Salem and was licensed as an attorney, in 1841, and as a counsellor, in 1844. He spent some years of his early manhood in agricultural pursuits and so, did not become prominent at the bar as early as he would otherwise have done had he devoted his whole time to his profession. Mr. Clawson, soon after he was licensed, opened an office in his native town, where he continued to live until his death. His practice must necessarily have been limited, as Woodstown was a small, straggling country village, of less than a thousand inhabitants, situated ten miles from Salem, the county-seat. It had no mechanical nor manufacturing interests and the community in and around the town was composed mostly of farmers; consequently very little litigation could have arisen. His father was an influential man; a brother, who also lived at Woodstown, was a leading citizen in the county and became a member of Congress. The young attorney had therefore the benefit of this family influence, which must have aided him materially. He could not, however, have succeeded as he did, were it not that his native ability and integrity of character supplemented all outside aid. He became so prominent in his profession that, in 1847, when Richard P. Thompson, who had been Prosecutor for Salem County, was appointed Attorney General, he was selected to fill the vacancy thus caused in the Prosecutorship. He performed the duties of this office ably and diligently and so satisfactorily, that, in 1859, Governor Olden selected him as an Associate Justice. The appointment was made in deference to a demand that some representative from that part of the State where he lived should be placed upon the bench and Mr. Clawson was the choice of those who seemed most to have a right to be heard upon that subject. The first judicial district composing the extreme southern counties was assigned to him He died in June, 1861, in the second year after his appointment.

It was generally supposed that he was a victim, with so many others, to the mysterious and insidious disease which attacked many of the guests of the National Hotel at Washington, who attended the inaugu-

ration of President Buchanan. Mr. Clawson was one of these guests and never after this visit to Washington, was in his ordinary health.

He was not a great lawyer, nor, perhaps, would he have been equal to the task of performing the duties of an associate justice in a large and important circuit, nor of grappling with the varied and complicated legal questions which are so constantly arising from the ramified and perplexing relations of the business of the present. But he was a man of excellent judgment, and sterling integrity. He brought to his office a determination to do his duty and his whole duty. If industry, honesty and strict attention to the duties of his position, combined with fair abilities, were all that was necessary to have made a good judge, then, William S. Clawson succeeded.

It must be remembered, when criticising him and his efforts as Judge that during all the time he was in office, a slow and lingering disease was carrying him to an early grave and that he should not be weighed in the same balance with other men with strong, vigorous physical natures.

John Van Dyke was born at Lamington, in New Jersey, early in 1807. His father, a farmer of moderate means, was a descendant of one of the many Germans who settled in that part of the State in the beginning of the eighteenth century. He could not afford his son the advantage of a classical education and so, the youth was forced to content himself with such training as could be gained in the schools of the day and of the place and that was none of the best. But he made the most of his advantages by application and industry and when released from parental rule, finding himself with no other means of obtaining a livelihood than continuing the life which had, up to that time, been spent on his father's farm, he put to use the acquirements he had gained in school and became a teacher. He engaged in this occupation for a very few years, and then went to New Brunswick, a green, country lad, with no family or other influence to aid him in the struggle. He felt acutely his want of classical training and appreciated the effect it might have on his professional life, if he should choose one. But he was energetic and had confidence in himself and his future. In 1832, he entered the office of James S. Nevius, who was then one of the prominent lawyers of Middlesex County and afterward an Associate Justice of the Supreme Court and was licensed as an attorney, in 1836 and as a counsellor, in 1839. In 1841, George P. Molleson, one of New Brunswick's lawyers, and then Prosecutor for Middle-

sex County, was appointed Attorney General. Mr. Van Dyke, at that time, was associated with Mr. Molleson in practice, and when that gentleman became Attorney General, sought to succeed him in the Prosecutorship. He was successful and held the office for one term. He was diligent in the performance of his duties and gained a reputation which materially aided him in his professional career. During the time he held the office, a terrible crime was committed in New Brunswick, which created the greatest excitement. A man named Peter Robinson murdered Abraham Suydam, the President of the Farmers' and Mechanics' Bank, of New Brunswick and a very prominent citizen. Robinson was indicted, tried and convicted. The trial was a remarkable one. Robinson was defended by able counsel and full opportunity was given to the young Prosecutor to show what there was in him. He was put upon his mettle and appreciated the possibilities there were for him in the case. He represented the State and conducted the prosecution with the aid of the Attorney General. His manner of conducting the trial, especially his peculiar ability in marshalling and presenting the facts to the jury, gave promise of the young man's future.

In 1847, he was elected to Congress and served for one term. It was at a stirring time; the country was then at war with Mexico and sharp and stormy debates agitated Congress. Mr. Van Dyke took part in these debates and, at one time, offered a resolution relative to the war which provoked comment and some sharp criticism. While serving as a representative, he met William A. Newell, afterward Governor, and became very intimate with him. In 1859, Newell became Governor of New Jersey, and in the distribution of offices, did not forget his friend and fellow-Congressman. Van Dyke was ambitious for office, but he aspired to that of Attorney General. Newell had the faculty of disappointing his friends and Van Dyke was not the only one of them whose fair hopes were blasted by the failure of the Governor to respond to what seemed just claims upon his friendship. Mr. Van Dyke undoubtedly felt himself better qualified to perform the duties of adviser of the State than those of Judge; but Newell appointed him associate justice and he accepted, taking his seat on the bench in 1859.

He was not well equipped for this position; he had not the legal learning nor the judicial mind, nor the analytic power, which are requisite to the character of a good judge. But he did have other attributes which were equally essential. He had great industry, untiring



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energy and an earnest desire justly and faithfully to perform the duties of his position. His mind was a growing one; it had the power of expansion and he became, before the term of his office expired, a sound, excellent judge. He had one faculty, which, perhaps, he derived from his German ancestry. He could dig and delve into the mines of legal lore, and he dug and delved for his own satisfaction and to aid himself in arriving at a proper conclusion. During the first year or two, while on the bench, he wrote very few opinions; but, after he fairly felt himself at home, began to assume the full responsibility of his office. He did not always agree with his brethren, and when he disagreed, did not hesitate to put himself on the record, even though he stood alone. He had one faculty, in which he had very few, if any, superiors, and that was the power of grouping the facts of a cause together and presenting them to a jury with very great power. His style was plain, unvarnished, with few graces of oratory, and his diction was not elegant; but he overpowered the judgment of his hearers and forced conviction by his masterly skill in this direction. This faculty enabled him, while on the bench, in the trial of causes before him at the Circuit, to enlist the attention of jurors and enable them to perceive the salient, governing facts in the case. He remained on the bench for one term and at the expiration of his office, removed to Minnesota, where he died.

George H. Brown was so short a time on the bench that but little can be said of him as a judge. During his term of office, he was suffering from the effects of an insidious disease, which prevented him from displaying to the full his capabilities for filling the position for which he was so well equipped.

He was born in 1810, in Somerville, the county-seat of Somerset county. His father, the Rev Isaac Brown, D. D., was a clergyman and a teacher, the principal of a large and flourishing school at Lawrenceville. He was prepared for college under his father's immediate personal supervision and graduated from Princeton, in 1828, when only eighteen years old, and then assisted his father in the Academy. But, he was ever determined to be a lawyer and two years after graduation became a student in the office of Thomas A. Hartwell, a practicing attorney at Somerville. Desirous of obtaining the very best legal education that the country afforded, he left Mr. Hartwell's office and entered the Law School Department of Yale College, where he remained a sufficient length of time to fit himself for examination for

license as an attorney-at-law, in 1835. In 1838, he was licensed as a counsellor, after he had been engaged in the practice of the profession at Somerville for three years. He remained in that place the rest of his life, engaged in his profession, until he was appointed an Associate Justice, in 1861. The opportunities for a successful practitioner at Somerville were not large, but Mr. Brown from the very first secured the best clientage in the county and was soon found among those who led the bar. Before his appointment as Justice he had received many honors, political and otherwise, at the hands of his fellow citizens. Although quite a young man at the time of the Constitutional Convention, he was considered worthy of a place in that conservative body; and when the Constitution, the work of that Convention, was adopted, Mr. Brown was the first Senator from Somerset, under the new Constitution, elected in a county where the majority of voters was politically opposed to him and which a preceding Legislature had weighted with territory containing a vote which it was presumed would prevent the election of any candidate of his political belief.

In 1850, he became a member of Congress, but was not returned at the expiration of his term. He did not relinquish his practice while in Congress, but retained as much of it as possible; when he surrendered political life and gave his whole time to his profession, he had very little difficulty in securing a return of his many clients. He continued to practice at Somerville until 1861, when, at the elevation of Judge Whelpley to the Chief Justiceship, Governor Olden, who rarely erred in his appointments, selected him to fill the vacancy thus created. But, at that time, the fearful disease which finally caused his death had a firm grip upon him. This disease developed itself very soon after he became an Associate Justice and he felt it to be his duty to resign, but yielded to the solicitations of his numerous friends at the bar and elsewhere, who urged him to remain. He was over-persuaded, and reluctantly retained his position against his own better judgment, but soon learned that it would be impossible for him properly to discharge the duties of the position. He finally resigned and, soon after, died, in the very prime of his life and when it seemed that he would become most useful to his State and his fellow-citizens.

The Woodhull family in New Jersey has been remarkable for the piety of its members. It has given to the State many distinguished clergymen, whose memory still lingers in the churches. One of these, the Rev. John Woodhull, D. D., was pastor for forty-five years in the

historic Tennent Church, near Freehold, and another was settled over several parishes in the State. The Rev. Nathan Woodhull, D.D., held a very advanced place among the clergy of his denomination in the lower part of New York. Yet, strange to say, the family, or at least, some of them, claim as their ancestor a warrior of rude Norse stock, who came with William the Conqueror, from Normandy and aided him in the conquest of England. It is well established that the family, for a long period, was settled in Northamptonshire, in England, and that Richard Woodhull came thence to this country in 1648, settled in Setauket, L. I., and from him came the founder of the family in New Jersey. The Rev. Dr. John Woodhull, mentioned above, was the first of the name in Monmouth County, where he was settled over the old church the year after the battle of Monmouth was fought, and from him descended George Spofford Woodhull who was born near Freehold, Monmouth County, and was the son of John T. Woodhull, M. D., an eminent physician of that county. The family was long identified with the society and interests of Monmouth and gave tone and character to its people. The grandfather of Judge Woodhull, the Rev. John Woodhull, D. D., who ministered so long over the Tennent congregation, by his talents and blameless life, exerted a great influence for many years not only in Church but in State. It was under such influence and amid such surroundings that young Woodhull passed his early life and was prepared for his useful and busy career. He received a careful preparation for college at home; but to fit him more perfectly, was sent to the Academy at Princeton, where he pursued the curriculum specially adapted for entrance to the college in that place, which he entered in 1830 and was graduated with honor in 1833. He became a student in the office of Richard S. Field, then practicing at Princeton, afterward Judge of the United States District Court of New Jersey, and was licensed as an attorney, in 1839 and as a counsellor, in 1842. Immediately after graduation he opened an office at Freehold and soon gathered around him a very respectable clientage. Family influence, of course, largely aided him, but it would have been of little use to him, after a short time, if his own talents and character had not been such as to command respect and invite confidence.

Atlantic County had been taken from Gloucester and made an independent organization. This opened a new field of operations for a young attorney and in 1850, Mr. Woodhull transferred his office to

May's Landing, the capital of the new county. Very soon after this removal, the Governor made him Prosecutor of the Pleas for Atlantic. He performed the duties of the position so entirely to the satisfaction of the Governor that that official, although opposed politically to Mr. Woodhull, made him Prosecutor for the adjoining county of Cape May. He held the positions for two terms, a period of ten years, being reappointed by another Governor, also opposed to him in politics.

In 1866, he was made Associate Justice by Governor Ward, and, at the expiration of his first term, was reappointed by a Democratic Governor, although he was a very pronounced and active Republican. He held the office of Associate Justice for two terms, fourteen years in all, retiring from the bench in 1880, having removed his residence to Camden, in 1862, where he died in 1881. Before his death he was tendered a position on the bench of the Supreme Court of the United States.

Judge Woodhull was an exceedingly conscientious judge, avoiding at all times and upon all occasions any possible interference with the just performance of his official acts. He brought to his office an appreciation of the honor which attached to it and of the manner in which its responsibilities should be met. He was unswerving in his stern determination to do his whole duty, first learning what that duty was; and yet, he was one of the most popular judges who ever dignified the bench. This was due to his kindly nature and his courteous manner. He was firm, but his firmness never became sternness nor less urbane when dealing with his brethren of the bar. If, in his view, duty forbade him to refuse a motion, the counsel who lost could make no complaint of the manner in which his motion was denied. He was well equipped for his high office by diligent study and the experience he had gained in his large practice.

Judge Woodhull was a fair representative of the best class of country lawyers who sometimes make the best judges. He had been obliged to attend to all kinds of cases and this had given him a large experience in the class of suits coming before the courts of his extensive and influential district, largely agricultural in its interests, with some manufacturing establishments.

He does not seem to have written many opinions during his term of office; but those reported show great labor in preparation, are sound and expressed with logical conciseness. He was zealous in the performance of every duty assigned to him; was self-poised without conceit and independent in thought, without the assumption of vanity,

He presided at several very important criminal trials, two of which might be classed among the *causes célèbres* of the State. In one of these he set aside the verdict of the jury, which was very rarely done in the criminal jurisprudence of New Jersey.

Judge Woodhull's personal appearance was very prepossessing. He was six feet high, gracefully formed, with large, gray, sparkling eyes, and carried himself erect and in a most dignified manner, but easy and free from all affectation. He was the most unselfish of men and delighted in aiding the deserving and doing kindnesses to all. It may truly be said of him that he was an upright, capable and conscientious judge.

Joel Parker had in his lifetime a national reputation, not as a lawyer, nor as a jurist, but as a politician and patriot, and it will be impossible in speaking of him, to overlook his political record. He was born November 14, 1816, in Freehold Township, Monmouth County, and his family had long been known in the history of that county. His ancestors were among the men who aided their country in Revolutionary times, at the risk of their lives and with the loss of property. His father was an honored citizen of Monmouth, having filled many official positions, and his grandfather was an officer in the Continental army and served with distinction. Like many other eminent Jerseymen, young Parker was educated at the Academy at Lawrenceville. He graduated from Princeton, in 1839, and then became a student-at-law in the office of Henry W. Green, afterward Chief Justice and Chancellor and was admitted to the bar in 1842. He opened an office immediately after being licensed, in his native place, and resided there until his death. Like most other young attorneys, he had a natural ambition for a political life and, until he was seated on the bench, always seemed to have a predilection for politics. But with him this taste did not arise from a grovelling greed for office, but it was the outcome of a high-toned, noble-souled patriotism. He often declined office—much oftener than he sought it; in fact, office sought him, he never solicited it.

In 1844, he threw himself with all the energy of his determined nature into the presidential contest and being an attractive speaker, was in great demand at political meetings. In 1847, he was elected to the Assembly, where, although he was the youngest member in the House, the position of leader of his political party was unanimously conceded to him. It was during this session of the Legislature that he

distinguished himself by his efforts to equalize taxation by the passage of a law taxing personal as well as real estate. Whatever may be said of the measure, and its merits are certainly debatable, it is undoubted that the law could not have been passed but for his persistent exertions. At the expiration of his term he refused a nomination to the State Senate and turned his attention to the care of his rapidly increasing practice.

In 1852, he was appointed Prosecutor of the Pleas for Monmouth County. During his term of office, his ability to advise and appear for the State was fully tested. A murder of unusual atrocity was committed; James P. Donnelly, a young man well connected, was suspected as the murderer, was indicted and tried. His relatives and friends were lavish in their expenditure of money and indefatigable in their efforts to save him from the scaffold. Joseph P. Bradley afterward of the Supreme Court of the United States, ex-Governor Pennington and Amzi C. McLean conducted the defence. Two of these were then of national reputation; the other, a leading lawyer of the county and no mean antagonist. The cause was tried as only a cause could be tried by such counsel; every point was contested, every fair and honorable advantage seized, which could aid in the defence. William L. Dayton, then Attorney General, was associated with the prosecution; but the preparation and management of the case, the arranging of the testimony, and the examination of the witnesses, were all intrusted to the prosecutor. The trial lasted nine days; the evidence was largely circumstantial, but, notwithstanding the efforts of his distinguished counsel, Donnelly was convicted and the trial has become one of the *causes célèbres* of New Jersey. The case went to the Supreme Court and from there to the Court of Errors, on numerous exceptions. It was a desperate battle; the defence was fighting for life, the State for justice and the protection of its citizens. Mr. Parker followed every step in the appeal with pertinacious zeal and marked ability and gained a high reputation at the bar for the manner in which he performed his duty. His opportunity came and he seized it. The appeal was unsuccessful and Donnelly was executed. The result of the trial was warranted by the evidence and no doubt was ever entertained by any disinterested observer of the entire justice of the verdict of the jury.

In 1854, Mr. Parker was named throughout his district as a prominent candidate for Congress, but decidedly refused to allow his name to be used. In 1858, public attention was again directed to him in connec-

tion with the same position; but, although an independent man, even in politics, he was loyal to his party, which was then in a peculiar position in the State, and, as he deemed that his nomination might possibly create dissension, he again declined. In 1856, he was first prominently named as a suitable candidate for Governor. He refused the honor, named Col. William C. Alexander as a proper person to receive the nomination, and in pursuance of this suggestion, Col. Alexander was nominated. In 1859, when the people of the State were discussing nominations for the same high position, he was again named, but again positively declined.

In 1860 Mr. Parker espoused the cause of Stephen A. Douglas, in his candidacy for the presidency. A curious state of political affairs then existed in New Jersey. There were three Democratic electoral tickets then in the field, representing the three Democratic candidates. A fusion was advised by the leaders of the party, headed by the State Executive Committee; but Mr. Parker opposed any fusion and, in his own straightforward way, argued that his candidate was the true representative of the party. A compromise, however, at the very last moment, was effected; all the Democratic electoral tickets were withdrawn and one substituted in their place, with three Douglas electors and two of each of the other candidates. Mr. Parker was one of the Douglas electors, all three of whom were elected.

During all these agitations he was steadily gaining clients and largely increasing his practice. He was peculiarly fitted to obtain and hold the esteem of those who intrusted him with their business; his plain, unaffected manners attracted their attention; he was a man of the people and always easy of access. His care and industry preserved their interests; his integrity invited their confidence and his success secured their respect for his opinion and faith in his judgment. His strong common-sense, one of his best characteristics, aided him materially in deciding as to the best course to be pursued in doubtful cases.

While thus biding his time, interesting himself in his practice and protecting the interests of his clients, there loomed up in the future mighty events which forecasted for him a glorious place in the history of his State and nation. Clouds of disturbance began now to lower ominously in the political horizon. Joel Parker was a Democrat, through and through, every inch of him; but his patriotism rose above party. He deprecated any movement which seemed to commit the

people of the North to measures interfering with what citizens of the South considered their property, secured to them by the law of the land. He would have consented to peace, sacrificed much to secure its continuance, but he would not sacrifice the Union, nor honor, nor the life of the Republic. So, up to the moment when what he deemed rebellion broke out and the Union and the consequent life of the Republic were at stake, he was earnest and decided, firm and unalterable, in his efforts to avert war. But when war came, he uttered no uncertain sound; he wavered not a moment, but with all the force of his energetic nature, threw himself into the contest on the side of the Union and of the Republic. At the outbreak of the war he was appointed Major General of the militia of the third division, comprising the counties of Mercer, Middlesex, Monmouth and Ocean. Charles S. Olden was the Governor, a man of consummate ability, of unerring judgment and an intense Republican; and Joel Parker was a pronounced Democrat. But the Governor knew his man and did not hesitate to nominate him to the Senate for this most important position; that body promptly confirmed the nomination and it was the very best selection that could have been made. General Parker seemed ubiquitous; he convened public meetings and addressed them; roused the patriotic spirit of the citizens to fever heat; organized uniformed companies and impelled them to enlist; he promoted volunteering and raised more men for the Federal army than any other man, more, probably, than any other ten men. He upheld Governor Olden in his support of the administration in its efforts to terminate the war. He did not stop to inquire into the merits of the controversy; the time to do that had long since passed.

In 1862, he was nominated for Governor by the Democratic Convention and elected by the triumphant majority of 14,600;—the largest ever before given in New Jersey for any candidate. Now began a career unparalleled in the history of the State. He became the great "War Governor,"—a name which clings to his memory and by which he is better known than by any other of his numerous titles. His administration was successful beyond expectation and is full of historic events which have made it famous. He saved the citizens of the State from draft; he cared for the wants of the soldier; he established a bureau for them where they might obtain correct information from home and friends and through which they might transmit letters and money to their families. He not only provided for the wants of the



Eng. by E. G. Williams & Bro. N.Y.

Thom Kirkpatrick

soldier in active service in the field, but also for the wounded and sick in ambulance and hospital. When Pennsylvania was invaded by Lee and Philadelphia was threatened, before the citizens of that State had recovered from their fright, or had raised a single company of men to defend their homes and firesides, thousands of Jersey troops, impelled by Governor Parker's magnetic influence, were marching through the great city to its relief and on to Gettysburg. The country rang with his praises; President and Governors, Congress and Legislatures, vied with one another in attesting to his ready patriotism and alert action in the cause of the Union. He made the name of Jerseyman glorious. These were but a few of his exertions during the war, and not the best and most enduring are here recorded.

While thus active and energetic in supporting the war, he was frank and outspoken in the expression of his views of certain measures connected with the conduct of the contest. He did not believe in the amnesty proclamation, he condemned the Emancipation proclamation; but, while he disapproved and condemned, he did not falter for an instant. The war must be sustained; the administration, even if not right in adopting some measures, must be supported; rebellion must be quelled; the Union must be preserved, at whatever risk or sacrifice. So, he kept on and never wavered; peace must come; the seceding States must return and resume their friendly relations. Until all that was realized, not a single measure could be abandoned which would aid in accomplishing such desirable ends. If it cost the government its last dollar and the country its last man, the war must go on until honorable peace was gained and the Republic saved. Thus argued this indomitable patriot and he worked as he talked.

In 1868, the delegation in the presidential convention from New Jersey nominated him for President and voted for him on every ballot. In 1871, he was induced to accept a gubernatorial nomination and was elected, although he had positively declined in 1866, at the termination of his first term as Governor, to be a candidate for any office. He retired at the end of his second term with the commendation of all parties, having been most successful in the discharge of the duties of his office. In 1875, Governor Bedle nominated him as Attorney General and the Senate did him the honor to confirm the nomination without the usual reference to a committee. He held this position for a few months only, and then resigned it to attend exclusively to his practice. In 1880, he was nominated and confirmed for Associate Justice. In

1887, at the expiration of his first term, he was again nominated to the office and again confirmed.

In estimating Judge Parker as a jurist, it must be remembered that his habits of life and thought had not been such as to equip him fully for the position to which he was elevated. His practice had been large and he had acquired a great experience; but he had been a public man and had devoted a large part of his life to the public service and in a field of labor where his mind and thoughts had been otherwise directed than to the study of the science of law. Under such circumstances, his intellect could not have had that ready grasp of abstruse legal principles so necessary in a judge who is called upon to decide on a moment's reflection during the hurry of a trial. But when Joel Parker became Justice, with his usual honesty of purpose, he determined to understand his duties and knowing them to do his whole duty. A more painstaking, careful man never assumed the ermine. He was not a technical judge; while at the bar, he had despised that narrow-minded manner of seeking victory in a cause by the elevation of trifles at the expense of honesty and justice. This habit of thought he carried into his discharge of duty as a judge. What he sought was principle; the real question with which to grapple, with him, both as a lawyer and as judge, was; What is right? He was aided materially by his innate love of justice, by his nice perception of the delicate shades of right and wrong, by his strong common-sense and his admirable judgment of human nature gained by his contact for so many years with all sorts and conditions of men. He was not a genius, nor a brilliant man, but he had qualifications which, in the long run, made him a better judge than if he had possessed more shining qualities. He was cold and dispassionate, calm and deliberate, patient and cautious. He was a good listener, except when fraud and chicanery were manifest and then, he was impatient and restive. He had no patience with a litigious party, nor with one who hoped to succeed by technicalities, or who was prosecuting a suit from ill will or for purposes of revenge. His opinions were carefully prepared and were evidently the result of investigation and study. In his circuit he was idolized, especially by the younger members of the bar; kindly by nature, he was courteous to all; generous and frank, he was accessible to all who sought for aid or for sympathy or for advice. Perhaps no words can better describe his judicial character than those used by one of his eulogists after his death. "As a judge, he was painstaking, faithful and sagacious."

He died suddenly at the house of a friend, in the city of Philadelphia, from apoplexy, January 2, 1888. His death was mourned as a common loss. The courts, not only of his own circuit, but all over the State, passed resolutions of respect for his virtues; societies and civic bodies met and gave their testimony to his worth.

These sketches have thus far referred to the dead: hereafter, they will discuss contemporaneous judicial officers, most, if not all of them, being still living and many of them in active life. The rule, *De mortuis nil nisi bonum*, is often too generously applied and it is a delicate task to direct attention to the peculiarities of those whom we are in the habit of meeting in the daily walks of life—to criticise, either favorably or adversely, those who have won the respect and admiration of their fellow citizens. "With charity for all, with malice towards none," with a profound esteem for every present member of the court and an ever increasing pride in the administration of justice in New Jersey and in its judiciary, the task is assumed of characterizing those who are now or have lately been the honored members of the Supreme Court.

The legal tribunals of the State, have always been worthy of the highest commendation; its judges have been fearless, incorruptible and able. Especially can this be said of its Chief Justices, in whose selection, since the Constitution of 1776, no mistake has ever been made.

Mercer Beasley was no exception to this rule. He was in office for nearly thirty-three years. His nomination has always been made by a Governor from his own political party, but, it would have made little difference, after his first term, what were the politics of the Governor or Senate, as he would undoubtedly have been renominated, in any case.

He was born near Trenton, in Mercer County, in 1815, and had an excellent ancestry. His father was a distinguished Episcopal clergyman, rector, at one time, of a parish in Trenton and for several years President of the University of Pennsylvania; his mother was a near relative of Isaac H. Williamson, so long Governor and Chancellor of New Jersey. He was educated at Princeton and after leaving college soon began the study of law. He had peculiar advantages as a student, as part of his clerkship was passed in the office of Samuel L. Southard and the remainder, under the charge of Chancellor Isaac H. Williamson. He was licensed as an attorney in 1838, as a counsellor, in 1842, and selected Trenton as a location for his office, where he resided until his death, in February, 1897.

At the time Mr. Beasley began practice there were to be found in Trenton some of the best lawyers in the State. Their names have but to be mentioned to secure at once a recognition of their ability. Most of them had more experience in their profession than had the young attorney. At first, he seems not to have been ambitious of securing position as a leader of the bar. For several years his name is not in the book of reports, but when once it did appear, it was fully evident that a mind of uncommon strength and brilliancy was exerting its influence in the legal tribunals of the State and from that time he assumed his proper place.

The kind of practice which seems to have very largely occupied the attention of Mr. Beasley, equipped him for the performance of the duties of a judge sitting in Bank; so that, when he became Chief Justice, he brought to the office a great experience in the examination of cases usually submitted to appellate courts. Whether it fully prepared him for the trial of causes in the circuits, is perhaps doubtful. But whatever may have been his lack of experience, at the outset, in that direction, he afterwards became a consummate trial judge.

Long before he was selected for the head of the court, he had rightfully secured the reputation of being one of the best special pleaders at the bar. He always delighted in this intricate part of the practice; it was still, in the early days of his professional life, a substantial part of a lawyer's education, but had now given way to the demands of improvement, and was rarely used. It may seem strange to those who know the Chief Justice's dislike for technicalities, to learn of his early and continuing love for what seems the most technical part of the practice. But special pleading, in the opinion of such lawyers as he, was a science, subject to rule and capable of being reduced to mathematical precision.

He lost nothing by his apparent idleness during the first few years after he was licensed. He was not an idle man; his after life showed that he must have been industrious, storing his mind with treasures of legal lore which could have been gained only by severe and thorough research. About ten years after he came to the bar he began his career of success as an advocate before the three great courts and from that time until he was made Chief Justice was always in demand. There were few causes of importance before the courts at Trenton in which he did not appear. His acknowledged ability, his great experience in the examination and argument of cases before the higher

tribunals of the State and his peculiar fitness for the position were so prominent that when Chief Justice Whelpley died, all eyes were turned to him as a fit successor to that distinguished man and in less than fifteen days after the death of his predecessor he was nominated and confirmed. He assumed the position on the 8th of March, 1864; was again nominated and confirmed in 1871; then, in 1878; for the fourth time in 1885, and was once more appointed in 1892. His selection, each time, met with the approval of all classes. He first sat in the Court of Errors in the March term of 1864 and rendered the first reported opinion of that term. The case was one in which an important question of practice arose: Whether writs of error were the appropriate remedy in certain cases? The cause involved principles which demanded from the judge an examination of the history of writs of error. The Chief Justice was necessarily obliged, in the delivery of his opinion, to exhibit his great learning, which he did in a most masterly manner. Every opinion delivered at that term, which has been reported, was prepared by him. This early manifestation of industry was a promise of his future which was fulfilled. The books of reports show abundantly that there has been no more industrious member of the court than he and that he did his share of the work of the two tribunals of which he formed so important a part and was so conspicuous a member.

The circuits over which the Chief Justice presided were not the most important in the State, although some weighty causes, both civil and criminal, were tried before him. But his true place was not in these tribunals.

There was not the same opportunity there for him to exhibit his real capabilities as in courts where argument and logic are more predominant and where he could listen to debate between the master minds of the bar. In the dignified quiet and repose of those higher tribunals he could calmly hear and, with leisure for reflection and time for thought, decide the important issues submitted to him. His written opinions are strong and vigorous, learned and pointed and display a firm grasp of all legal subjects involved; but they are sometimes somewhat obscure and need close observation and the strictest attention to fully grasp the meaning. There is a marked difference between the Chief Justice's written decisions and his charges to juries; his opinions abound with uncommon words not unfrequently coined from his own fertile brain. His charges to juries were models of directness

and simplicity, easily understood and always directly to the point. They struck the heart of the subject like the ball which his keen eye and firm hand sent, with unerring aim, from his favorite rifle. His grasp of mind and reach of thought coupled with his profound learning enabled him to comprehend the abstrusest legal principles and it was not uncommon for him to base an opinion upon a point in a cause not touched or noticed by the most astute counsel. He did not disdain to use for his leisure moments the lighter literature of the day, and was an omnivorous reader. His favorite amusement was found in his workshop, where, with the keenest tool, with chisel and lathe, his skillful hand fashioned artistic carvings in wood. The bar of his native State were justly proud of their Chief Justice and never feared to intrust the interests of their clients in his hands. Not a breath of suspicion ever tarnished his fair name and he stands among his peers with an enviable record as a judge and citizen.

Joseph D. Bedle and Van Cleve Dalrimple were associate justices with Chief Justice Beasley. Governor Bedle, for he held both offices of Governor and Judge, was born at Matawan, Monmouth County, in 1831. His ancestry was of English stock, but he could trace his lineage back through citizens of New Jersey for more than a century and a half. His father was prominent in Monmouth County, having been a Justice of the Peace and a Judge of the Court of Common Pleas for several years. Young Bedle acquired his education in an academy at Matawan, once known as Middletown Point. Very early in life he became a student-at-law in the office of William L. Dayton, who has already been referred to in these sketches. He does not seem to have finished his whole course with this gentleman, but to have attended a law school in New York, for some time, and then to have prepared himself for admission in that State in the office of Thompson & Weeks, at Poughkeepsie. In 1852, he was admitted as an attorney and counsellor, in New York. But he was not satisfied with his prospects in that great Commonwealth, for, very soon after being licensed there, he returned to New Jersey, finished his course as a law stustudent with Henry S. Little and was licensed by the Supreme Court as an attorney, in January, 1853, and as a counsellor, in 1856. He opened his office, at first, at Matawan, but only remained there for two years, when, seeking a larger field, he removed to Freehold, the capital of the County. Here he soon secured a large business, which, in time, became very lucrative. In 1865, Governor Parker proposed to

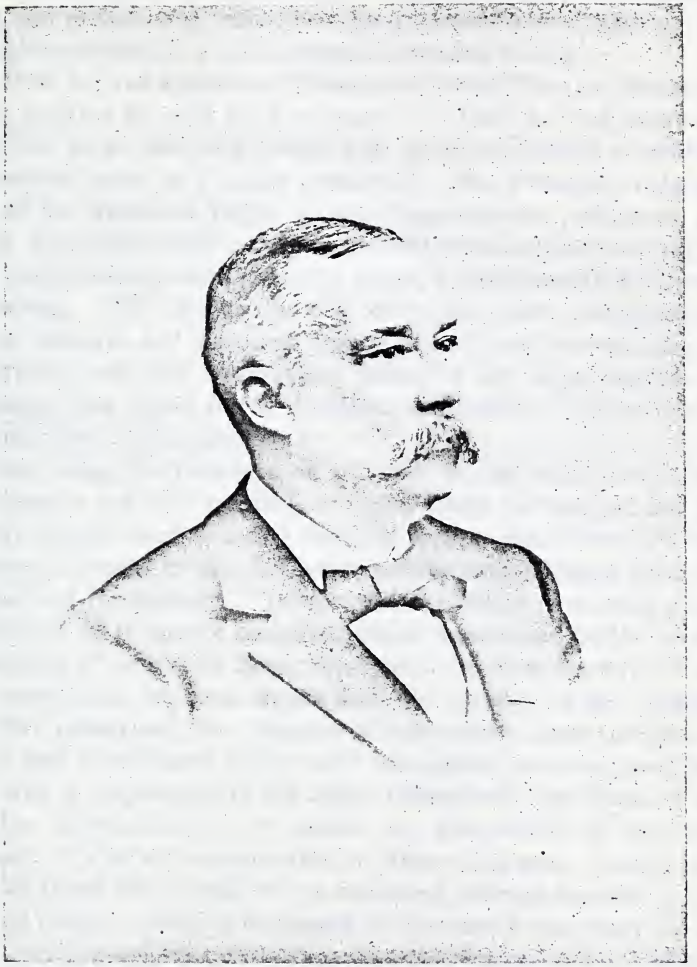
him that he should accept the position then vacant, of Associate Justice of the Supreme Court. After some deliberation and much hesitation, he consented and was commissioned, on the 23rd of March, 1865. The circuit assigned to him was a very large and important one, comprising the counties of Hudson, Passaic and Bergen, in which were the populous cities of Jersey City and Paterson. The circuit has since been found to be too large for one judge and has been divided. Judge Bedle, upon being commissioned, changed his residence to Jersey City, so as to be easily reached by the lawyers who might necessarily seek him in the performance of his official duties. His manner of meeting the responsibilities of his high position was so admirable that at the end of his first term he was renominated and again confirmed without any opposition; in fact, with the approval of all classes of the community. During his first term, his name was mentioned in connection with a candidacy for Governor, but without the slightest action of his own. During his second term, in 1874, he was again named in connection with the office of chief magistrate of the Commonwealth and received a unanimous nomination from the Democratic Convention. He had not sought the nomination, and did not decline, but put himself in the dignified position that he would do nothing to aid his election. He was a judge of the highest tribunal in the State; as such judge, it was not proper that he should descend from his position and become an active seeker for the suffrages of the people. So, he refused to resign as judge and would take no part in the canvass. Many doubted the wisdom of his decision and argued that he should resign and become an active partisan. But he was right in his high-minded resolution and the people appreciated his determination. He was elected over one of the most popular men in New Jersey, by a very large and triumphant majority. His administration as Governor was able, vigorous and marked by prudence and patriotism and he retired from the office, at the expiration of his term, more firmly than ever intrenched in the admiration and confidence of his constituents.

He was one of the youngest judges who ever sat upon the bench, being only thirty four years of age when nominated. It could not be expected that he would manifest, as a judge, that profundity of learning, that grasp of thought and that rich experience which can only be gained by long years of practice. Judge Bedle took his seat on the bench in the June term of the year 1865 and rendered his first decision at that term. It was given in a not very important cause, but there

was enough in it to put the young judge upon his mettle and he fully satisfied his friends of his ability to grapple with such cases as might be submitted to him. His next opinions were given at the November term of the same year when he rendered several upon the matter of taxation,—a subject which had been and was still a *vexata questio* with the court. The law in several particulars was settled by these decisions and the members of the court unanimously concurred with him.

His opinions, while not profound nor abstrusely learned, are able, strong, vigorous and convincing and have received the confidence of the bar. His mind was active and he soon learned that to be excellent as a judge he must combine sound argument, quickness of perception, a keen appreciation of the true facts of every cause, with an ability to analyze and promptly select and seize upon the salient points and principles involved in the cases presented to him. He was a just judge, with one abiding rule,—to ascertain the right in a suit and then dispense justice so that the right might be protected. He was afterwards in full practice in Jersey City, doing a very large and lucrative business and was counsel for many important corporations. He was one of the most genial of men impressing his kindness of heart upon all who came in contact with him. He died October 21, 1894.

Van Cleve Dalrimple was born in Morris County, in 1821. His father was Joseph Dalrimple, a man long in public life and foremost in his political party. He was for several years a Judge of the Court of Common Pleas. The family, as its name indicates, was of Scotch descent, and traces its genealogy, for several generations, through a Morris County ancestry up to the original Scotchman who first settled there. Judge Dalrimple when quite a lad, determined to become a lawyer, pursuing an academic course in Morristown, industriously employing all the appliances within his reach in the direction of the bar. At the age of nineteen he entered the office of Henry A. Ford, then a lawyer in full practice, in Morristown, and, in due course, became an attorney, in 1843, and a counsellor, in 1847. Immediately upon being licensed he opened an office in Morristown and early acquired a very respectable clientage. His rise at the bar was remarkable for the celerity with which it was gained. Morris County has always been distinguished for its accomplished lawyers with whom it was no easy matter to grapple. But Mr. Dalrimple fearlessly entered into the contest and bravely worked his way with heavy odds against him. He



RICHARD T. MILLER.

accomplished all this by dint of perseverance and energy, accompanied with untiring industry in the study of the principles involved in causes which were placed in his hands, with great care in the preparation for trials and unswerving fidelity to the interests of his clients. He gave scrupulous attention to all business intrusted to him.

In 1852, he was appointed Prosecutor of the Pleas for Morris County, which position he held for five years. In 1866, he was nominated and confirmed as an associate justice and, at the expiration of his first term, was renominated and again confirmed. He brought to the performance of his duties as judge, a cool, dispassionate judgment, great patience, wise deliberation, patient investigation, great learning and the most important characteristic of a judge, a discrimination between right and wrong. His circuit was not one of the most important; but, it was no sinecure and required great industry and unremitting activity to perform well the responsible duties of his high position. Judge Dalrimple was equal to the situation and met the approbation of all who practiced in his courts.

When Judge Dalrimple took his seat on the bench the strictness of the common law was yielding to a new order of thought and practice, and the Courts were relaxing the iron grasp, which, through their subservience to mere forms, had for centuries been fastened upon the jurisprudence of the country. In many of the States new codes of law were established, in too many instances, those sanctioned by the wisdom and experience of centuries being rejected. In New Jersey, the partition wall interposed between equity and the severity of the common law was still preserved, the dogmas which custom and the decisions of courts had formulated being still recognized as wise and just; yet there was a disposition in the legal tribunals of the State to interject into the administration of justice an alleviation of the hardships imposed by a strict construction of these dogmas. Judge Dalrimple aided in these efforts and, in his decisions, always inclined to the new order of things. He did not stand in the way of the progressive movement, and his opinions fully demonstrate that his mind had outgrown the bonds which an old fashioned common-law practice too often imposed upon the lawyer educated in the old schools.

The opinions of Judge Dalrimple are regarded with great respect by the bar. When he retired from the bench, he did not return to active business, but, having acquired a moderate competence, sufficient for his simple tastes, spent the remainder of his days in dignified quiet.

Unfortunately for the community, as well as for himself, he had for many years, been afflicted with rheumatic gout, which seemed inexorable and so crippled his hands and feet that he was laid aside from intellectual labor. He had a taste and fondness for literature of the highest order, and, if he had retained his physical strength would undoubtedly have benefited his kind by his intellectual ability to instruct and interest.

Judge Dalrimple gained a character for the purest integrity while at the bar and on the bench, and carried with him into his enforced retirement the respect and confidence of his fellow citizens.

When the term of Daniel Haines, as Associate Justice, expired, it devolved upon Marcus L. Ward, then Governor of New Jersey, to find a fit successor. Governor Ward was a conscientious man, loved his native State, and anxiously sought for the fittest man. To his astonishment, one or two leading lawyers to whom he tendered the nomination for the vacant position, declined the honor; but, he was still more amazed when many members of the bar named an attorney practicing in the small town of Belvidere, as the man best equipped to fill the place. The Governor had never heard of this able lawyer and knew nothing about him. But this was not remarkable; the chief magistrate of the State had had very little to do with lawyers; he knew all about soldiers, and could name without much thought or hesitation the best fighters in the war which had just closed, for he had been a firm and fast friend of the boys in blue. He soon became satisfied that this lawyer from Belvidere, thus recognized by members of the bar as fully fitted for the office, although unknown to him and to fame, was the man for whom he was seeking, and so, on the 15th of November, 1866, David Ayres Depue was commissioned, after being duly nominated and confirmed, as an Associate Justice of the Supreme Court; and no better nomination was ever made.

Judge Depue is of Huguenot descent; his original ancestor, Nicholas Dupui, as the name was then spelled, came to this country from Artois, France, in 1662, and settled in New York on the site of the present Produce Exchange. His great-great-great-grandson, Benjamin, descended from two other Benjamins, and an Abraham was the father of Judge Depue. Nicholas Depui, a grandson of the original Nicholas, lived at Minisink, on the Delaware, during the last century, and was prominent in the colonial records of New Jersey. Judge Depue's father removed from New Jersey to Mount Bethel, Northampton

County, in Pennsylvania, where the future judge was born in 1826. In 1840 he returned to Warren County in New Jersey, not to the home of his ancestors, but to Belvidere, the capital of the county, bringing his son with him. Young Depue had a careful father, who determined that he should receive the very best education that could be obtained. Accordingly, he gave him the benefit of a thorough academic course, in preparation for a college training. In pursuance of this plan, the young man was placed in Princeton College, where he graduated in 1846. In less than ten days after graduation, young Depue entered the office of John M. Sherrerd, then one of the leading lawyers of Belvidere. A very warm friendship sprang up between preceptor and student which continued until the death of Mr. Sherrerd. This friendship was so strong on the part of the student, that his only son was named after Mr. Sherrerd. This son, very soon after his admission to the bar, was made Assistant U. S. District Attorney.

Judge Depue was licensed as an attorney in 1849 and received his counsellor's decree in 1852. He remained for about a year after being licensed, in Mr. Sherrerd's office; then, following the advice of his friend and instructor, that he should become independent and fight his own way, he opened an office in Belvidere and soon gathered around him a circle of warm friends and admiring clients. He had not been idle during his clerkship, but had applied himself industriously and carefully to the study of the law, not alone as the means by which he was to earn his bread, but from a pure love for the science. After he began the practice of the profession, he did not allow himself to be drawn aside by the ambition so common to young lawyers, of acquiring political honors. He was a born lawyer and delighted in delving into the abstruse principles of legal science. He did not study law simply to use it for the present exigency, nor to prepare himself for future contests, but because he loved its abstract ideas and revelled in its metaphysics. He soon led the bar in his part of the State, and became known as a highly accomplished lawyer, an astute counsellor and a powerful advocate. So, when, in 1866, he became an Associate Justice, he brought to the office an unusual preparation for the proper performance of its duties. He did not seek the nomination and could, in no sense, have been considered a candidate. In fact, he wrote to Governor Ward, when he heard that his name was mentioned in connection with the position, that he was not an applicant for the nomination So soon as he was appointed, he removed to Newark where he

has ever since resided. His circuit, at first, comprised the counties of Essex and Union, by far the most important in the State; Newark, the largest city in New Jersey, being in Essex, and Elizabeth, an important town, in Union.

It is almost impossible to do justice to the characteristics of this illustrious man. For more than thirty years he has been the Circuit Judge of Essex County. For a large part of that time that county has comprised the whole of his circuit. Union was long since placed in that of Judge Van Syckel. From the first term of court held by him, Judge Depue fastened himself upon the affection and confidence of the people and they have never swerved from their loyalty to him. They believe in him; his word is law, his judgment is conclusive, his opinion implicitly trusted; juries have an abiding faith in his utterances. It is sometimes amusing, after a wearisome trial, when lawyers have badgered them with their conflicting views and the time has comes for the judge to give his opinion of the case, to watch the jurors and see them start from their listless position and become all alive. They seem to say: Now, we shall get at the right of it; now, we can learn what is our duty; their eyes kindle, their faces are all aglow, and, as the words drop in measured tones, each strong, and driven home by inexorable logic and convincing argument, they see clearly their duty in the case and the law involved. If there be one quality of Judge Depue's mind more marked than another, it is his ability to set the facts of a case before jurors and apply the law with exactness to those facts. He is so cool, so dispassionate, so free from prejudice, so impartial, that they know they will be fairly and honestly dealt with, and that they will not err if they follow his lead.

It is charged by some that he is restive in the trial of causes. Perhaps the charge is partially true; but it is the impatience of genius chafing at the dullness of inferior minds, at the waste of time in the platitudes of mediocrity, or, at unnecessary delay. He is always fair, never impatient, when the case demands care and examination. But his quick, alert mind sees the end from the beginning and he regrets that valuable moments should be wasted in delaying a result which he had already learned was inevitable. So, his impressive: "Proceed gentlemen!" means that it is not necessary to spend breath in endeavoring to postpone that which is already determined, or to establish that which is so easily demonstrable.

Judge Depue took his seat on the bench at the November term of

the year 1866, but, of course, could take no part in delivering opinions, except such as were oral and could only listen to arguments. His first opinion was given at the March term, 1867. It was a case of quo warranto arising upon the school law of the State. The cause was not of any great importance, but it received, as did every case submitted to him, a thorough and searching examination. His opinions are always exhaustive and he has the faculty of ascertaining every point there is in a cause.

In 1873, his first term closed, and he was renominated by Governor Parker, who, although politically opposed to him, yet appreciated the importance of retaining him in the judiciary of the State. In 1880, he was again nominated, this time by a Democratic Governor, and confirmed. His third term expired in 1887, when he was again made an Associate Justice, and again in 1894. These reappointments were just tributes to his impartiality, ability and integrity. He has, since his appointment to office, never swerved a hair's breadth from the strict line of duty; when on the bench, he knows no friend or foe and is swayed by no motive other than the earnest, overwhelming desire to do justice to all. His keen discrimination and quick intuition enable him to discern at once what is the true path of duty and he never fails to follow it.

With all his mental acquisitions, his intellectual ability and his profound learning, he is a man of simple and unaffected manners and is easy of access to all, no matter how poor or humble. He is a great reader and delights especially in biography; his tastes are scholarly and lead him to the highest order of literature. He dearly loves the society of friends and will unbend himself with them in his leisure moments, indulging in humor and the discussion of lighter themes than those connected with abstract legal principles. Two colleges in New Jersey have conferred the degree of LL.D. upon Judge Depue,—Rutgers, in 1874 and Princeton, in 1880.

Early in the last century there came to New Jersey many emigrants from Holland. Among these Hollanders was a family named Van Syckel, which settled in Hunterdon County. Some of the descendants of this family are still prominent in the community and are distinguished citizens of that county. A small hamlet has received the name —Van Syckel's Corners—which is an index of the influence they exercised in the county. These immigrants were a sturdy race, fearing God, obeying the laws and exerting a powerful influence over the community by their honesty and intelligence. They were fit repre-

sentatives of the Dutch of two centuries before, who, under the leadership of William the Silent, with high souled courage and an ever-abiding faith in their righteous cause, were enabled to defy Spain and successfully resist the power of the greatest empire then known.

Bennet Van Syckel was the fourth in descent from the original Dutchman of the name who came to New Jersey and is the third son of Aaron Van Syckel, one of the very best citizens who ever lived in Hunterdon County. Judge Van Syckel was born at Bethlehem, April 17, 1830. He was prepared for college by the Rev. John Vanderveer, at Easton, Pennsylvania, and was graduated at Princeton, in 1846. After graduation, he entered the office of Alexander Wurts, of Flemington Mr. Wurts was a very excellent lawyer and young Van Syckel must have enjoyed great advantages for acquiring a practical knowledge of the profession, in his office. He was licensed in 1851, and received his counsellor's degree in 1854. Flemington was the county seat of Hunterdon County and some of the best lawyers were to be found there. Young Van Syckel had the ambition to place himself in the front rank of his profession. It was an honest ambition, born from a knowledge of his own ability and faith in himself. He opened his office at once, at Flemington, where he knew that he must meet counsel of more experience than himself and who had for years a firm hold upon the community. His great zeal in the cause of his clients, his exactness and care in the conduct of business and in the preparation for trial, his knowledge of legal principles, his indefatigable energy and his unblemished character for integrity soon won for him a reputation which he fully deserved and which secured a large clientage. If he excelled in any one department of his profession, it was in his intimate acquaintance with those principles which governed the law relating to real estate.

In 1869, he was made Associate Justice, was reappointed in 1876, again nominated in 1883 and again in 1890, and entered upon another term in 1897. His performance of the office of Justice has proved so satisfactory to all persons interested in the jurisprudence of the State, that each reappointment has met with universal approbation. Judge Van Syckel took his seat upon the bench March 2, 1869, and delivered his first opinion in the Court of Errors at the succeeding March term, and in the Supreme Court, at the June term of 1869. The case in the latter court involved some very nice principles of constitutional law arising upon the Constitution of 1844. The opinion delivered by Jus-

tice Van Syckel was so excellent and so convincing that the bar readily concluded that the right man was in the right place.

The characteristics of Judge Van Syckel's mind are quickness of perception, alertness of decision and a prompt grasping of the salient features of a cause. The reports of cases in the courts where he sits fully demonstrate his ability and industry.

His circuit is composed of Union and Ocean counties. He is a good trial judge; his decisions are rarely overruled and have secured the confidence of the lawyers who practice in his circuit.

He is a man of great moral power and acts conscientiously and firmly from the force of his convictions. He does not keep his finger upon the pulse of public opinion, but fearlessly follows the strict path of duty. His course, in Union County, in pursuit and punishment of pool sellers and gamblers, fully demomstrated that he was determined that offenders against the law should receive their full deserts. With such men as he on the bench, New Jersey will never lose its hold upon its reputation for strict and impartial justice.

The Scudder family has been prominent in New Jersey for several generations. During the Revolution it furnished many men for the patriot army, both as privates and as officers. It has always been influential for good from the character of its individual members, especially in Mercer County, where many of the name are still to be found. In the early history of the colony and during the War of Independence the family was most numerous in Essex, but in after times, it found its way to the neighborhood of Trenton, where it gave tone and character to the community. Edward W. Scudder was born from this race, at Scudder's Mills, in Mercer County, near Trenton, in 1822. He graduated at Princeton, in 1841; then entered the office of William L. Dayton, afterwards Minister from the United States to France. He was admitted to the bar in 1844, and made counsellor in 1848. So soon as he was licensed, he opened an office at Trenton and almost immediately secured a large practice of the very best character. The scrupulous care which he gave to the interests of his clients, his great industry and integrity secured the entire confidence of a large clientage. His name soon appeared as counsel in the reports of both common law and equity courts and quite frequently in many important cases.

He was not an aspirant for political honors, but in 1863, was elected to the State Senate from Mercer County, for a term of three years and was President of that body during the last year of his term of service.

In 1869, he was appointed an Associate Justice and was thrice renominated, the last time in 1890. He died February 3, 1893. He assumed the duties of his office in March of the year of his appointment and rendered his first decision in the Supreme Court at the November term and in the Court of Errors at the June term of the same year. His first opinion was delivered in an important case, in which a large amount of property was at stake, involving questions of law relative to specific performance of an agreement to convey. It was in the Appellate Court on an appeal from the Chancellor. Judge Scudder met the complications of the case and unravelled the antagonisms of the evidence with great ability, showing himself fully competent to meet the requirements of his high office. From that time until his death he was a prominent member of both tribunals.

Judge Scudder has been an addition to the strength and dignity of the bench. He represented there the moral force which always attends the presence of a good man, of a conscientious and upright citizen and of a God-fearing, intelligent Christian. He was not a man of impulses, nor of moods; his temperament was equable, he was peculiarly free from prejudice and always impartial. The impelling force of his character as judge was his strong, keen sense of the right; he never disregarded precedents nor set aside principles, nor did he overthrow well-settled decisions. His great desire, his controlling impulse, was to learn the right. To do entire justice between man and man, to so interpret the law and apply it that wrong should be remedied and equity prevail, was the main spring of his action. He impressed himself upon the communities, where he presided at the circuits, as a painstaking, conscientious and industrious officer; diligent in the protection of the interests of the citizen, strict in the administration of justice, swift in the punishment of criminals, but ever tempering the stern demands of an outraged law with mercy, and, above all, as a just and unbiassed judge. His judgments were sound and bear the test of severe criticism; his opinions were marked by a clear, lucid style, forcibly expressed, and bore traces of research and labor. He reasoned well, expressed himself strongly and forcibly and was always evidently swayed by a strict adherence to duty. His character as a jurist and as a citizen may be summed up in one single, homely phrase: It was all rounded.

Manning M. Knapp was born in Sussex County, in 1823, and was licensed as an attorney in 1846, and as a counsellor in 1850. He began his practice at Hackensack, the county town of Bergen, where he always resided.



H. M. NEVIUS.

Bergen County is and always has been largely an agricultural county, and its citizens mostly of Dutch descent. The first immigrants of this stock came to the new county in the early part of the seventeenth century and were soon followed by large numbers of the same race. At first, the settlements were on and near the Hudson River, but they gradually spread into the rich valleys of the Hackensack and the other streams intersecting the county, and there, these Hollanders built their quaint, substantial dwellings. As their substance increased, they jostled one another in their various interests, but, being law-abiding, sought remedy for real or fancied injury in legal measures. They were phlegmatic in their temperaments and sluggish in all their movements, but tenacious of their rights and once aroused, never let go their grip. These characteristics made them the most stubborn of litigants. A Bergen county lawsuit was a synonym for a long and bitter legal battle. In the beginning of the present century and down almost to 1850, the old lawyers from Newark regularly attended each term of the court in that county, and rarely failed to be retained in some important cause. The conditions of trade and of commerce materially changed, however, after the revulsion of 1837, and the volume of legal business was much diminished before Mr. Knapp came to the bar. Besides, Bergen had parted with a large part of its territory in the formation of Passaic and Hudson counties. The courts, nevertheless, were kept busy and lawyers were needed to bring suits, conduct trials and protect the property and interests of their clients.

The chances of success for the young lawyer, when he opened his office at Hackensack, seemed problematical, but he succeeded and obtained a large practice. The stolid and slow citizens of Bergen were discriminating enough to understand and appreciate the merits of the rising attorney and intrusted him with their business. His practice increased and extended into the higher courts.

In January, 1875, he was nominated and confirmed as an Associate Justice of the Supreme Court, and took his seat at the February term, but does not seem to have rendered any opinion at that time. His first opinion, as Justice, was delivered in a case upon appeal to the Court of Errors, from an equity decree, involving some questions relative to the law of fixtures. Judge Knapp's argument was exhaustive, has received the approval of succeeding courts and settled the law in the State. The reports from that time until the time of his death fully show that he was alive to his responsibilities as Jus-

tice, and that he was always ready and willing to perform his whole duty. His circuit included only the county of Hudson, the smallest in extent of territory, but the second in population and importance. It contained the populous city of Jersey City. Judge Knapp died January 26, 1892.

Jonathan Dixon, Jr., was born in England, in 1839, but removed so early to the United States that he has not the slightest trait of language or manner to indicate his foreign birth. He is, in fact, as patriotic a citizen of the great Republic as any to be found among the native born. Early in life, he settled at New Brunswick, and became a member of the family of Cornelius L. Hardenburgh, who had been a lawyer of extensive practice, but had become blind. Young Dixon acted as his personal attendant and amanuensis for several years. In 1855, he connected himself with Rutgers College and graduated from that institution in 1859. He then entered the office of Mr. Warren Hardenburgh as a student at law and continued his studies with him and with Messrs. Dutton and Adrain, until he was licensed, in 1862. He almost immediately removed to Jersey City and became a clerk in the office of E. B. Wakeman, a lawyer then doing a large business. Mr. Wakeman very soon discovered the fitness of the young attorney for the practice of law, and offered him a partnership, which, however, only continued for one year. In 1865, he received his counsellor's license and from that year until 1870, practiced his profession alone. In 1870, he connected himself with Gilbert Collins, then a rising young lawyer, and continued in business with him until 1875. Such shining abilities and great worth as were possessed by him, were soon discovered and appreciated and he rapidly grew in public esteem as a citizen and lawyer, until he reached a height in his profession which could only be attained by a man of brains and integrity. He very early became distinguished as a lawyer of great acuteness of intellect. This characteristic united with industry and perseverance, with strict attention to the interests of his clients and care in all the details of his practice, soon secured for him a very large clientage.

In 1875, he was nominated as an Associate Justice by Governor Bedle and confirmed by the Senate. He was a Republican and the Governor was a Democrat; but the worth and fitness of the nominee for the position were too apparent to be overlooked and party lines were disregarded. Governor Bedle honored himself by his nomination, secured for the State the services of an accomplished jurist and an upright judge and added force and dignity to the bench.

His appointment took effect April 8, 1875, in time for him to be seated at the June term of the Supreme Court, but he does not seem to have then rendered an opinion. In November following, at the next term, he delivered several opinions, all of which fully proved the ability of Judge Dixon to meet and grapple with any cause which might be presented to him. Since his appointment he has been one of the most active members of the courts in which he sits. He is peculiarly adapted to the position of judge. It would be impossible to catalogue all the characteristics which distinguish his fitness, but the following are some, perhaps, the most prominent: Cool, patient to listen, observant of every point, acute-minded, quick of perception, alert to learn what there is in a cause, profound in his appreciation of the difference between right and wrong, even to the minutest shades, well-read in his profession and capable of analyzing and applying the legal principle applicable to the case before him; dispassionate, prompt in decision, swift in discernment, ready to act on the strength of his own convictions, careful ever to do just what is right, irrespective of public clamor or of personal interest, conservative in thought and action, able to express himself strongly in a few words, capable of marshalling human testimony and of reconciling its apparent inconsistencies, dignified and courteous.

He is a consummate trial lawyer and has a power of compressing his charges to juries into a few lucid sentences which, however, are so expressive that juries never fail to understand exactly what is his meaning. His circuit is composed of the counties of Bergen and Passaic. In 1896 he was appointed to his fourth term of office, having been renominated each time by a Democratic Governor.

While Justice, he was selected by a Republican convention as a candidate for Governor. He did not seek the nomination and, in fact, was opposed to the candidacy. He therefore refused to resign his office as judge, but was defeated.

In private life, Judge Dixon is the most genial of men, delights in the society of friends and indulging in quiet mirth. He is fond of general reading and the higher branches of the very best literature.

Alfred Reed was born in December, 1839, in Mercer County. He was educated for college in the very best academies and in 1859 entered Rutgers College. In 1860, he connected himself with the law school at Poughkeepsie, and in 1862, sought and obtained admission to the bar of the State of New York. He seems, however, not to have been

pleased with the practice of the profession in that State, as he returned to Trenton, resumed the study of the law there, and was admitted to the bar in New Jersey, in 1864. He became a member of the Common Council of Trenton, in 1865, and was made President of that body. In 1867, he was elected Mayor of Trenton, in which capacity he served for one full term. In 1869, he was appointed President Judge of the Courts of Common Pleas and Quarter Sessions for Mercer County, in which office he remained for five years. On the 8th day of April, 1875, he was commissioned an Associate Justice of the Supreme Court and took his seat at the June term of the courts of which he thus became a member. At the time of his nomination for this office, he was the youngest judge on the bench. In fact, he won all his honors in early manhood. He became President of the Common Council at twenty-six, Mayor at twenty-eight, Law Judge when thirty and Associate Justice when just past thirty-six. But he was fully equipped for all these positions which he honored by accepting. He had prepared himself for his law practice by study and research and his subsequent history has shown that no mistake was made in his elevation to the bench. His first term expired in 1882, since which time he has been again renominated and confirmed, and served on his third term, when he resigned and was immediately appointed Vice Chancellor.

He rendered no opinion until the November term of the year of his nomination. His first decision was given in a case of not much importance, but it was of a character which enabled the young judge to show his ability and skill. After that he was industriously engaged in the performance of his duties as a judge. His circuit was a large one, composed of the four counties of Cape May, Cumberland, Salem and Atlantic and he was one of the busiest of the judges, not so much, however, by the importance of the cases brought before him as from the number and frequency of the terms of his courts, of which there were twelve each year in his four counties, in addition to which, he was necessarily obliged to attend eight terms in the Supreme Court and Court of Errors, making twenty terms each year, in all. It can well be imagined that Judge Reed had his time fully occupied.

His opinions are marked by one peculiarity; he delights to break them up into short, pithy sentences and his early decisions were easily distinguished without much examination, by simply glancing at the printed page. He does not seem, however, to have kept up this prac-

tice in his later decisions. He is an independent thinker, a forcible writer and an excellent judge. While a pronounced man in his political views, he never suffered any bias in that direction to warp or control his action as judge. In fact, it is the glory of the bench of New Jersey that no considerations of a political nature ever enter into their decisions. Of Judge Reed it may be truthfully said that he has met with undeviating respect and confidence from the citizens and from the bar of the several counties where he presided and that his renomination in each instance was universally approved. His course as vice-chancellor has added materially to the excellent reputation he gained as a judge of the common law courts.

William J. Magie is the son of the Rev. David Magie, D.D., for more than forty years the honored and beloved pastor of the leading Presbyterian Church of Elizabeth and whose fame as a divine and as a good man, was in all the churches. Judge Magie was born at Elizabeth in December, 1832, was well prepared for college, entered Princeton in 1849 and was graduated in 1852. In the following year he entered the office of Francis B. Chetwood, one of the best lawyers in Elizabeth; was licensed as an attorney in 1856, and as a counsellor in 1859. His preceptor, appreciating his worth, offered him a partnership and a connection was formed when he came to the bar between him and Mr. Chetwood, which extended over a term of six years. He then, for a short time, practiced alone, but soon formed a connection with a Mr. Cross which continued until Mr. Magie became Associate Justice. For five years from 1865 to 1870, he was Prosecutor of the Pleas for Union County, which position he filled with marked ability. His counsel was eagerly sought by many corporations,—Deposit and Savings Banks, railroad and manufacturing companies and municipal bodies. He was not a politician, although decided in his political views. But in 1875, against his will and despite his better judgment, he was induced, by the strong persuasions of his friends and members of the political party to which he belonged, to accept a nomination for Senator from Union County. That County was then a doubtful one, but Mr. Magie was elected. He held this position for three years and was a most valuable addition to the Senate, serving the interests of the State and of his constituents with scrupulous care and attention. He took a leading part in all debates and was placed on several committees. His course in the Senate was marked by a jealous regard for the honor of his native State, by a consistent, manly and independent action and by a vigilant

guard over the true interests of his party. He disdained the petty devices and mean tricks of many politicians who seek to advance themselves at the expense of decency and self respect. In this way he commanded the respect of all, both friend and foe. In 1880, he was appointed Associate Justice, was twice renominated and was serving his third term when he was appointed in February, 1897. Chief Justice of New Jersey to succeed Hon. Mercer Beasley, deceased. He took his seat on the bench at the March term, 1880, of the Court of Errors and at the June term of the same year of the Supreme Court. His first opinion was read in the Supreme Court in the June term. It was an important case arising upon an application for a mandamus. Some very troublesome constitutional questions were presented in the cause arising from some peculiar provisions of the Constitution of 1844. The young judge grappled bravely with all the difficulties in the case and mastered them with great ability. There seemed to be very few decisions by which the court could be aided. Judge Magie referred to one case only, in New Jersey, upon one of the main points raised and to one other case, for some collateral principle. His opinion in this case is a very able one. His arguments were powerful and convincing. He read several other opinions at the same term. Since that time he has been one of the most industrious of the judges and has done his full share of the work of both courts.

His circuit is composed of Morris, Sussex and Somerset. It is not a very large nor important one, but involves much labor. Judge Magie is an excellent trial judge. His large practice while at the bar, a considerable of it being the trying of causes before juries, enables him to understand and appreciate the exact worth of human testimony, to apply the principles of law to the evidence and to lead the minds of the jury in the right direction. He has great force of character, is prompt and decided, dignified and graceful in appearance; he has the force of his own convictions and is independent in thought. He does not hesitate if he differs with his brethren of the court, to avow his differences calmly and strongly.

He is a man of ample proportions as well of body as of mind, being full six feet in height and of admirable presence. His mental make-up is characterized by coolness and a dispassionate mode of thought; he reasons well and logically, has a firm grasp of all subjects which come within the range of his mental vision and easily conquers any difficulty which may be found in a case demanding his attention. He is of a firm

and decided character, free from all affectation, genial and easy of access, of a high-toned morality, and acts independently, without regard to mere public clamor or shaping his course by questions of expediency, but according to the strictest principles of right.

There is one gentleman who, as he enters the Court of Errors and takes his seat as a judge, must occasionally have a quiet laugh all to himself. He once, in a most summary way, overruled a decision of that court, without hearing counsel, or even permitting the court to say a word in its own behalf. That tribunal had rendered a decision which caused some comment among members of the bar in New Jersey and elsewhere. A leading law periodical desired an article on the subject, and an audacious law student undertook to demolish the court by writing *his* opinion on the case. The journal published the communication and sent it out to its subscribers with the indorsement of it which the publication gave. The court, however, did not annul its decree; but this was not because there was no vigor nor sound reasoning in the criticism. It is to be hoped that if the same question should come up before the court while that student has a voice in its deliberations, he will use his utmost endeavors to secure a ruling in consonance with his views thus expressed.

Charles Grant Garrison is the youngest Justice on the bench. He was born at Swedesboro', August 3, 1849. His father was the Rev. J. F. Garrison, D. D., a distinguished clergyman of the Episcopal Church and a Professor in the University of Pennsylvania. Young Garrison was prepared for college in schools of the Episcopal church and was graduated as a physician from the University of Pennsylvania, in 1872. He opened an office in his native town and continued practice until 1876. Preferring the profession of the law, he abandoned a physician's life and entered the office of Samuel H. Grey, an eminent lawyer in Camden, where he remained until admitted as an attorney in 1878. In 1881, he promptly applied for and received his license as counsellor. He has not been an aspirant for political office, but has been advanced to ecclesiastical and military honors. In 1882, he was made Chancellor of the Diocese of New Jersey, an office of the highest importance in that Church, equivalent to that of Attorney General, in the State. In 1884, he was made Judge-Advocate General of New Jersey.

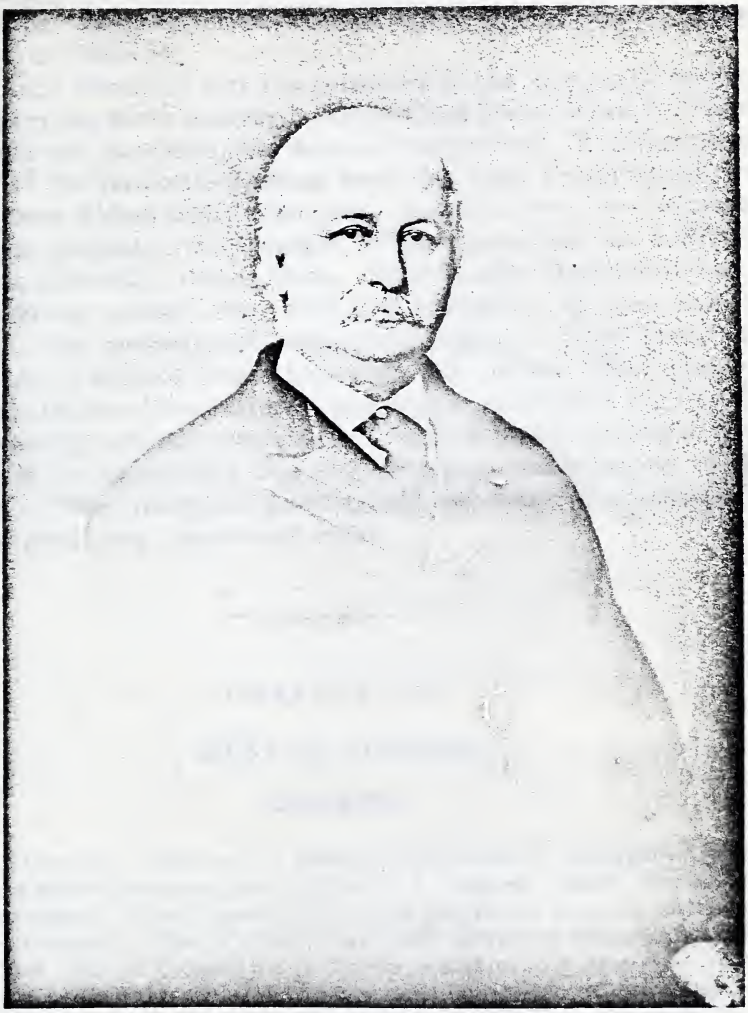
Mr. Garrison brought to the practice of the law a well-matured mind, great aptitude to analyze principles, powers of discrimination and the

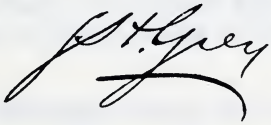
ability to scrutinize testimony, adapt it to the case in hand and learn from it what was the real point involved. His practice grew rapidly and he became so conspicuous a practitioner that, at the death of Joel Parker, he was nominated an Associate Justice to fill the vacancy. He took his seat at the February term, 1888, and was renominated for a second term in 1895, but seems to have taken no active part in the rendering of opinions until the June term of 1888. He read several decisions at that term, some, in quite important causes, and from that time has had his full share of the labors of the courts to which he is attached. His circuit is a large and important one, involving a laborious life for a judge who, like Justice Garrison, is conscientious in the discharge of his duty. It is composed of the three counties of Burlington, Camden and Gloucester.

Judge Garrison is an excellent trial judge and presides at the several circuits with great ability and to the acceptability of the bar and of suitors. He has had in his short term of office some important murder cases, one of which was most mysterious and the murderer has never been discovered. Whenever these cases have come to trial full opportunity has been given of testing the judge's powers to grapple with some of the most intricate questions of criminal law and he has shown himself fully able to meet any exigency which might arise.

Judge Garrison is an independent thinker and does not fail, whenever his mind reaches a conclusion in opposition to the rest of the court, to express his opinion freely. He has stood alone in his views more than once and has strongly and vigorously put himself upon the record. The cases of Collins *vs.* Voorhees and of Bannister *vs.* Jackson, decided in the Court of Errors, in 1890, afford specimens of his mode of reasoning. The Voorhees case involved a question of legitimacy of children born from a marriage contracted during the lifetime of a former wife, divorced by a fraudulent proceeding; that of Bannister raised the question of testamentary capacity. Some very good lawyers are inclined to agree with the Judge's views in each case.

Judge Garrison has an alert mind, an incisive diction, a strong, vigorous manner of expressing his views and is a valuable addition to the courts. He is not contented with the mere study of the abstract principles of law, but strengthens his mental capacity and enlarges his intellectual vision by general reading of the highest and best kind of literature.





George C. Ludlow was appointed June 18, 1895, to succeed Judge Reed and Gilbert Collins was nominated in February, 1897, as Associate Justice. Sketches of the lives of those two gentlemen appear elsewhere in this work.

A few facts connected with the personnel of the Justices of the Supreme Court are worth noticing. Every Chief Justice since the Revolution, with one exception, has been a Presbyterian. The very great majority of the Associate Justices have also been Presbyterians and many of them Elders in their churches. Nearly all who were educated at colleges, graduated at Princeton. There have been but very few small men, physically, among them. Chief Justice Hornblower was a small, delicate, slender man; with that exception, all have been of good size, well proportioned, strong and vigorous; none have been lame or halt or blind or deaf. Above all, not one has fallen from his high estate by moral derelictions, but each has sustained a high standard of morality, not only requiring it in others, but practicing it himself. It is not astonishing that with such men, the character of the judiciary of New Jersey has stood so high and that it has achieved so much for good order, justice and virtue.

CHAPTER XIV.

COURT OF CHANCERY.

CONTENTS.

Court of Chancery; Discussion in 1769, as to this Court, in Governor's Council; Opinions of Richard Stockton, David Ogden, C. J. Frederick Smyth, Charles Reed and Samuel Smith. Three Opposed Court; Two Favored It; Court Existed During and Since Cornbury's Time; Cornbury and other Governors Sworn in as Chancellors; Took Oath as Chancellors, or the General Oath to "Administer Justice Duly and Impartially;" Court at first Unpopular; Constitution of 1776 Recognized Court; Governor made Chancellor; Constitution of 1844 Made Chancellor Independent Officer; Change in Practice of Court as to Taking Testimony; Appointment of Vice-Chancellors; Names of Present Judges of Court; Sketches of Chancellors and Vice Chancellors.

On the 24th day of November, 1769, at a meeting of his Council, Governor William Franklin informed the Board that some doubts had

arisen respecting his authority to act as Chancellor and desired the opinion of the members thereon. No reasons were given for the foundation of the doubts; the simple fact was stated and nothing more, as appears by the record. The matter was discussed and it was, at last, suggested that the question be referred to a Committee, which was accordingly done, and, in the meantime, Franklin was advised to suspend all proceedings on the equity side of the Court of Chancery, to which he assented. The Committee was composed of five of the ablest men in the province, all members of the Council They were David Ogden, Charles Read, Samuel Smith, Frederick Smyth and Richard Stockton, four of whom were lawyers, one the Chief Justice and another, an Associate Justice of the Supreme Court of the Colony; the other two were leading lawyers of the time. The Committee was directed to report on or before the 14th day of May then next. On the 21st day of March, 1770, each member presented an independent report. So far as appeared on the records, there was no prior conference of the members of the Committee, but each had considered the question independently and presented his own opinion. Chief Justice Frederick Smyth, David Ogden and Associate Justice, Charles Read, the majority of the Committee, voted in the negative, holding that the Governor could not sit as Chancellor; Richard Stockton and Samuel Smith voted in the affirmative, asserting that there was and had been a Court of Equity in the Province and that the Governor was Chancellor and could sit as sole Judge.

The opinions of Stockton and Ogden were very learned and exhaustive, and abounded in quotations from the law books of the day. The Chief Justice gave no direct opinion on the question whether there had been a Court of Chancery in the colony, but indirectly admitted such to be the fact. He insisted that such a tribunal was necessary for the proper administration of justice; but, he argued: 1st. That there were no grounds for believing that a Court of Equity had existed in the province except by custom or usage and, while admitting that those facts ought have some weight, yet he doubted whether they were sufficient to prove that such a court legally existed, and claimed that the Governor of the province should be invested with authority to act as Chancellor by a commission emanating from a source competent to appoint.

2nd. As there was and had been no such commission, and, in his view, it should be a special commission and not a general one, the Governor had no right to act.

3rd. The Chief Justice instanced the manner of appointing the Lord High Chancellor of England as another argument against the Governor's right. That officer was expressly named by the king, had the great seal delivered to him and took an oath faithfully to discharge the duties of the position. The Governor had not been expressly called by the Sovereign to act as Chancellor, had received no special commission, had taken no oath of office, and no great seal had been delivered to him. True, he had received a seal, but it was only the public seal of the province, like a corporation seal, not a great seal like that given to the Chancellor, in England, used for many purposes entirely foreign to a Court of Equity. He then proceeded to state some historical facts, instancing the case of Sir Nicholas Bacon, Lord Keeper of the Great Seal, in Elizabeth's time, who had omitted to take a special grant to hear causes in the Court of Chancery. To remedy this defect, a commission was issued to him by the Queen, giving him full authority to hear causes in the Equity tribunal and making special provision that his act should have the same authority and be as effectual as though he had been Lord High Chancellor. Not satisfied with that, Sir Nicholas required an act of Parliament to be passed declaring that the Lord Keeper had the same jurisdiction as the Lord High Chancellor.

The Chief Justice also referred to some circumstances occurring in the history of the Island of Barbadoes, in the early part of the 17th century. The Governor and Council of that Island had been in the habit of hearing and determining causes as a Court of Equity. Complaints of their proceedings were made to the King's Council, in England, and on the 12th of October, 1720, that body declared that the Barbadoes authorities had exceeded the bounds of their jurisdiction; "that the proper jurisdiction of the Court held before the Governor and Council in Barbadoes, in matters cognizable in any of the Courts of Common Law in that Island, is only to correct the errors and grievances arising in the proceedings of the lower courts, and not to proceed originally in causes, except upon petitions in matters of equity.

The argument closed with the expression of a hope that an application would be made to the King for a Court of Chancery, "as it is evident that such a court is equally as necessary as a Court of Error or appeal in the Province."

Mr. Ogden's argument was much more elaborate. He treated the case under these heads:

1. What were the original powers and business of the Court of Chancery, in England?

2. How is a Court of Equity to be erected by the laws of England?

3. What was the Constitution of New Jersey in its first state of a civilized government (i. e.) while under the government of the Proprietors, as to the erecting of Courts in the Province, before it was divided into East and West Jersey?

4. Whether a Court of Equity was erected in both or either of the Divisions of New Jersey? When and how was the same established and who was the Judge of that Court?

5. Whether his Majesty's Commission appointing a Captain General and Commander in Chief of New Jersey, or his royal "Instructions," issued therewith to all Governors or either of them, do give the Governor a power to hold a Court of Equity, or show his royal intention to be that the Governor should hold or be the Judge of such Court; or, do they show the contrary?

6. Whether the public and great seal of the Province being committed to the Governor does vest him with sufficient authority to hold a Court of Equity in New Jersey? Without a choice or nomination of him by the Crown for that purpose?

7. When was a Court of Equity first held in New Jersey, after the surrender of the Proprietor's government to the Crown? How was it established and who have been the Judges thereof since it was erected under the king's government?

8. Is the Chancellor or other Judge of a Court of Equity, &c., to take an oath of that office before he acts therein? Hath the Governors taken the oath of that office, and who is to administer such oath?

These questions, or, at least, most of them seem pertinent to the discussion and a proper answer to them would settle the matter. Mr. Ogden insisted that a Court of Equity, in England, could not be created by grant or commission, but, was the creature of an Act of Parliament, or might exist by prescription. He did not touch the question whether the King could, or could not, commission a Chancellor.

Discussing the third head, he referred to the Grants and Concessions of Berkeley and Carteret, and insisted that the Legislature was the only power in the colony which could create a Court of Chancery, according to that document.

To the fourth question he answered that the Assembly, in pursuance of its authority under the Grants and Concessions, in 1682–3, created the Court of Common Right, which court was vested with the jurisdiction to hear, try and determine "all matters, causes and cases, Capital,

Criminal or Civil Causes of Equity and causes triable at Common Law, which Court shall be the Superior Court of this Province."

In considering his fifth head, Mr. Ogden argued that neither by the "Instructions" to Lord Cornbury, nor, in his "Commissions," was he appointed Chancellor, but that he was especially directed not to displace any of the Judges whom he might find in the provinces, nor was he to execute their duties, either by himself or by his Deputy; and the whole tenor of the "Instructions" and of the "Commissions" negatived the idea that he should act as Chancellor.

His argument on this branch of the case was very elaborate in its examination of the "Instructions."

The sixth head, which refers to the great seal of the Province received quite an extended discussion, but his argument on this part of the case is summed up in this quotation from the "Instructions" from which he made many extracts: "that you shall and may, use and keep, the public seal of our Province of Nova Caesarea or New Jersey, for sealing all things whatsoever that pass the Great Seal of our Province under your government;" and the inference he drew from it was that this could not by any possibility vest in the Provincial Governor the right to act as Chancellor, and that the seal could not be used for so solemn a purpose as to give credit and force to the Decrees and Judgments of a court.

In answer to the seventh head, he gave the history of the Court in New Jersey and, beginning with Lord Cornbury, showed that all the Governors of New Jersey, except Ingoldsby, from Cornbury down to the time of Belcher, had taken the oath of office as Chancellor and had held courts of Equity; and that on several occasions, the Council expressed the opinion that the Governor was vested with the authority of Chancellor.

The eighth question, Mr. Ogden answered in the affirmative, stating that, in his opinion, it needed no argument; that it was already settled by statute, and that any person exercising the office of Chancellor must take an oath such as is prescribed by law.

After presenting his opinion, Mr. Ogden made a further argument, giving other reasons for his decision, in which he referred to the question whether the court had not been created by prescription, and whether the colonists, being Englishmen and subjects of Great Britain, were not entitled to all the courts of the mother country. As to prescription, his argument was that that principle could not apply, be-

cause there was record proof of the fact that the Governors of New Jersey had acted as Chancellors, the principle of prescription only applying where there is no proof by record or otherwise than through the mere memory of man. In this connection he cited the records to which he referred. He admitted that the colonists, being Englishmen, were entitled to a Court of Chancery, but insisted that that fact gave no authority to the Governor to act as Chancellor.

Mr. Stockton's opinion, which was the first one read, Mr. Ogden's being the last, was exceedingly able and considered the question under two heads:

1st. Whether a Court of Equity does exist in this Province?

2nd. Whether the Governor is Judge of it?

These were very pointed and direct questions and struck at the heart of the controversy. In answering the first, he insisted that the Court did exist, and for several reasons:

1st, because the Court with others owed its existence not to any act of Parliament, but to the Common Law and when British subjects came to this western country, they brought their courts with them and all that was necessary to give them life here, was for the king to commission officers for them; that the king himself could not, in the exercise of his royal prerogative, take away from any of his subjects the right to the enjoyment of these tribunals.

2nd, because many writs which have been issued continually in the province, and to which the subject has an indubitable right, cannot issue from any other source than from the Court of Chancery. Certain writs, said Mr. Stockton, are Original Writs, king's writs, granted to the subject as a matter of right, which can only issue out of the Court of Chancery and are tested in the king's name. These writs have issued in the colony and therefore there must have been a Court of Equity. This Court could not be confined simply to the issuing of writs; if it could exercise that jurisdiction, then it was open for the performance of every other act which could be done by the Court of Equity in England.

3rd. The law and practice of every other court of Westminster had been adopted in New Jersey, and a relief might be needed from the severity of the judgments of these other courts and that relief could only be obtained in the Court of Chancery; it must exist here, right alongside of the courts whose strictness of rules requires a tribunal whose province it is to do equity for its suitors. "To say the con-

trary, would be to say that there was a right without any remedy, which is against a principle of law as well as the Common sense of mankind."

4th. Because such court has actually exercised jurisdiction here from time immemorial, and therefore might exist solely from prescription. Mr. Stockton's argument upon this point was based upon certain historical facts relative to the Court, into the consideration of which he did not fully enter, citing, however, one upon which he seems to have particularly relied, and that was this: In the year 1698 the Legislature of New Jersey, in an act then passed, recognized the existence of a Court of Chancery. He did not state directly the words of the act; if he had done so, perhaps he could have strengthened his argument. The statute to which he referred is undoubtedly that entitled "An act declaring what are the rights and privileges of his Majesty's subjects, inhabiting within this Province of East and West Jersey." That act declares: "That the General Assembly of this Province shall constitute all Courts within the same, with their Limits, Powers and Jurisdictions, except the *present* High Court of Chancery." The same act again refers to this Court in this manner: "Judges of the Court of Common Right for the time being shall not be Judges of the High Court of Chancery."

These historical facts, Mr Stockton insisted were sufficient, to every legal intent, to found a prescription and then, he claimed, in that connection, that "There is no man living, it is presumed, who can point out a time since the Government of this colony began and show that *then* no Court of Chancery did exist here."

But, if a Court of Chancery had existed and still existed in the province, the main question: Was the Governor its Judge? still remained to be answered. Mr. Stockton, answering this, argued in the affirmative,—that he was Chancellor from analogy. *The king, before a court was created for the purpose*, was vested with full power to hear appeals from inferior courts and moderate their severity. The Governor was in place of the sovereign, in the new colony, represented him, and must be invested with the same equitable jurisdiction. But the main reason given by the learned jurist for deciding that the Governor was Judge, was this: He was the keeper of the great seal of the province. In arguing this part of his opinion, Mr. Stockton met several objections which were made to the insistment that the Governor took the authority to exercise the office of Chancellor from the fact of his

having the seal in his possession. It was not the "Great Seal;" it was the public seal of the province, given to him for certain purposes not connected with any court.

Of course, no adequate idea can be given of any of the arguments of the members of the Committee, by these extracts. There was apparently no discussion before the Council, unless the brief argument of Mr. Ogden, after he had presented his main paper, was such; that really seemed to be in answer to Mr. Stockton's argument, whose opinion was certainly deserving of the greatest attention; it was very learned, well written, thoughtful and considerate.

On the 26th of March, 1770, another meeting of the Council was held, when the subject was again discussed and the opinions of the other members given. A majority was found to be in favor of the establishment of a Court of Equity and of the appointment of Governor Franklin as Chancellor; the result was that "the Council, after mature deliberation advised that his Excellency, Governor Franklin, be, by ordinance, appointed the Chancellor or Judge of the Court of Equity of this Province, and that the Attorney General be desired to prepare a draft of an ordinance for the better establishing the High Court of Chancery of this Province and for appointing his Excellency Governor Franklin the Chancellor or Judge thereof." Two days afterwards, the ordinance was presented to the Council, discussed and unanimously passed.

It is an indubitable fact that a Court of Chancery had existed in the colony during and since Cornbury's time, until 1750, and that each of the Governors from and including Cornbury to Bernard's time, took oath as Chancellor, except Ingoldsby. In November, 1704, an ordinance for establishing a Court of Chancery was passed and on the 30th of that month, Cornbury was sworn in as Chancellor. At the same time five members of the Council were sworn in as members of the Court. On May 26, 1707, it was ordered that the Court be opened, and two days afterwards, the Court was opened; after reading the ordinance, two Masters in Chancery were sworn in, and two days after that, two Clerks. In the time of Lord Lovelace, Governor, December 21, 1708, the members of the Council were sworn in as judges of the Court of Chancery. When Robert Hunter was Governor, January 1, 1710, Lewis Morris, Roger Mompesson, Peter Sonmans and Thomas Gordon were appointed a committee to prepare an ordinance for a High Court of Chancery, and on the 3rd of January, 1710, Lewis Morris,



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reported the ordinance on behalf of the Committee. On the 17th of March, 1713, Lewis Morris moved that the Court of Chancery be opened; the motion was discussed and the Council decided, that, as the Governor "held the custody of the seal of the province under the Great Seal of England," he was, ipso facto, Chancellor and that he might appoint the proper officers and declare the court open when he pleased. On the 8th of August, 1715, Gov. Hunter took the oath of office as Chancellor. Governor William Burnet acted as Chancellor, on the 23d of November, 1723, when he notified the Council that he had appointed two Masters in Chancery and an Examiner. On May 1, 1724, an order was made that an ordinance be prepared for regulating the fees of officers in the Court. On the 1st of February, 1727, a Solicitor of the Court made a motion based upon a decree granted by Governor Burnet as Chancellor. On July 4, 1730, a Committee was appointed to revise the ordinance relative to fees, to "moderate the same in such manner as they shall judge agreeable to the circumstances of this Province and to consider of remedies for any abuses that they may discover to have crept into the practice of the Court." On the 13th of the same month, the Committee reported that they had gone through the ordinance, made several amendments and had examined into the abuses and presented some remedies for correcting them.

There was a quick succession of five Governors from 1733 until 1747, ending with Jonathan Belcher, all of whom took the oath of office as Chancellor. From 1750 up to 1763, there were four Governors, Francis Bernard, Thomas Boone, Joseph Hardy and William Franklin. Neither of these was sworn in as Chancellor, until March 28, 1770, when Franklin took oath as Chancellor under the ordinance passed a few days before by the Council, but they were each sworn to administer justice duly and impartially.

There can be no possible doubt under this statement, that there was a Court of Equity in the Province during colonial times from the surrender to Queen Anne, in 1702 until 1776, and that the Royal Governor acted as Chancellor. The important fact remains that the authority of the Governor to act as Judge of this Court was never, until Franklin's time, seriously questioned. The Court was duly officered; it had a Judge, a Clerk and other ministerial officers; it passed decrees, entered judgments and enforced them; it had behind it many centuries of existence in the mother country, and the prestige of a useful career in the past that promised much for the future; it was eventually to

become part and parcel of the jurisprudence of the State, firmly rooted and grounded in its very being, possessing in a most eminent degree the confidence of the community and was entitled to its respect and admiration, for the ability of its judges, for its perfect integrity and that conscientious adherence to the principles of equity and right which has ever marked its proceedings. At first, it did not meet with the favor of the community; the old Saxon spirit of independence that claimed the inestimable right of trial by jury engendered a feeling of jealousy against a court where a single Judge determined such important issues as were often brought before it. But this spirit gave way before the growing confidence in a tribunal whose action was found to be permeated by the principles of justice and with which equity was a cardinal virtue.

The Constitution of 1776 recognized the necessity of retaining so useful a Court and by direct terms made the Governor the Chancellor of the State, or, as it was expressed, "of the colony." The Constitution of 1844 separated the two offices and made the Chancellor an appointee of the Executive by and with the advice and consent of the Senate.

It is entirely probable that during the colonial times comparatively little business was done in this Court, but, as the population increased, business also increased; mercantile and mechanical ventures were put in operation; the duties of the Chancellor became more and more onerous, and, in process of time, the Court was burdened with cases, and the physical and mental resources of the Chancellor were overtaxed. The method of conducting suits in this tribunal, through the slow and tedious examinations of witnesses taken in writing by examiners, became irksome to Counsel and suitors and not at all satisfactory to the Court. Another cause of complaint arose from the fact that the Governor was elected for only one year; making an officer upon whom depended so many important interests liable to be removed at most inopportune times, at the will of political parties. This made litigants and their solicitors restive and desirous of securing permanency in the position and less frequent changes in the incumbents. So, in the new Constitution it was declared that the Chancellor should hold office for seven years.

The tedious delays in the disposition of causes in this court, arising from the peculiar method of taking the testimony in written form and the consequent expense, very nearly imperilled the existence of the

court and it was determined by Chancellor Zabriskie that some means must be taken not only to change the system of trial, but to expedite the decisions of causes. In 1871, he drew a law which was passed by the Legislature, providing for the appointment of one Vice Chancellor by the Chancellor, the commission to issue from the Governor. Gov. Randolph, who was in office at the time, seriously objected to this law and was about to veto it because of the method of appointment, all other judicial appointments being made by the executive with the advice and consent of the Senate. But such representations were made to him by Chancellor Zabriskie that he was induced to withdraw his objections and approve the act.

By the terms of the statute the Chancellor might refer to the Vice Chancellor causes or other matters, which, at any time might be pending before the court, to hear for the Chancellor, report thereon and advise what order or decree should be made. The act made a change in the method of hearing witnesses who were required to appear before the Vice Chancellor and be orally examined and the case was to be tried in the same manner as suits in the several courts of law on trial before a jury. The Vice Chancellor was authorized to employ a Stenographic Reporter and to fix his fees. The Chancellor was also directed to divide the State into districts and appoint the time and places for the hearing of causes before the Vice Chancellor, who was to be a Counsellor of at least ten years' standing and was not permitted to practice in any court of the State. His salary was Five Thousand Dollars, with an additional per diem allowance of Ten Dollars for every day actually engaged. A salary of Nine Thousand Dollars is now paid to each Vice Chancellor, without any extra allowance.

Amzi Dodd was appointed the first Vice Chancellor, was commissioned May 2, 1871, and resigned May 1, 1875.

Abraham V. Van Fleet became his successor, May 3, 1875, and was thrice reappointed, but died December 25, 1894, just after entering upon his fourth term, and was succeeded by John R. Emery, who was appointed January 30, 1895.

Several acts have been passed at various times, by the Legislature, authorizing an increase in the number of Vice Chancellors until, from one, in the beginning, there are now five. The third Vice Chancellor was Amzi Dodd, commissioned the second time, April 1, 1881, but he only held the office until January 1, 1882, when he was elected President of the Mutual Benefit Life Insurance Company, located at Newark, and of course, resigned his office as Vice Chancellor.

John T. Bird was appointed to succeed Amzi Dodd, his commission dating from January, 1882, his term expiring in 1896. Frederic W. Stevens became his successor April 14, 1896.

Henry C. Pitney, Alfred Reed and Martin P. Grey were independent appointments by the Chancellor, authorized by virtue of several acts of the Legislature.

The present members of the Court of Chancery are the following:

Chancellor:	Alexander T. McGill.
Vice Chancellors:	Henry C. Pitney.
	John R. Emery.
	Alfred Reed.
	Frederic W. Stevens.
	Martin P. Grey.

The volume of business in this court has increased with wonderful rapidity and it seems hardly possible that officered even as it is, it will be able to meet the requirements of suitors. The time of the Chancellor and Vice Chancellors is fully occupied in the hearing of causes and in attention to the other business of the court.

The courts of Common Law and the Court of Equity, in New Jersey, have never interfered with each other. Each has acknowledged the jurisdiction of the other, without any attrition or friction. The benefits which have accrued to the suitors of the State from the wise and beneficent practice of the Court of Chancery can never be calculated. It has fastened itself upon the respect and confidence of the people and is now recognized as the most important factor in the jurisprudence of the country. The drift of public opinion is in favor of its independent jurisdiction within its own orbit and opposed to its union with the Courts of Common Law. Its destruction will certainly never be permitted and it is fervently hoped that no diminution of any of its powers will be attempted, either by Constitutional Amendments, or otherwise.

It will be remembered that the Governors, after 1776, were also Chancellors and, therefore, it was necessary that the appointees to that office should be lawyers and, if possible, able and experienced in their profession, and great care was taken in their selection.

William Livingston, who has been noticed elsewhere, was succeeded by William Paterson, whose services in the Federal Constitutional Convention have already been referred to. He came with his father very early in life, in 1747, from the north of Ireland. His first residence was at Trenton, or as it was then called, Trent Town, afterward at Prince

ton, then, at Somerville. He was a graduate of Princeton College, at that time one of the best educational institutions in the land. Six years afterward, in 1769, he was licensed as an attorney, having completed a regular term of service in the office of Richard Stockton. He commenced the practice of his profession at a place called New Bromley, in Hunterdon County, but soon removed to Somerville, then known as Raritan. He early espoused the patriotic cause, but was not, at first, favorable to separation from England. In 1775, he was elected a member of the Provincial Congress from Somerset, became Assistant Secretary, and in the succeeding year was elected Secretary. He supported the Constitution of 1776, but, like many others who voted for it, regarded it only as a temporary measure and afterward advocated its revision.

In 1776, he was appointed Attorney General of the State, then one of the most important offices in New Jersey. It involved a most dangerous service; the Courts were obliged to meet at different places in the State and the only mode of travel for the Attorney General was on horseback. Paterson, however, did not shrink from the performance of his duties. In 1780, he was elected a member of the Continental Congress, without his solicitation, while still Attorney General. The objection to several offices being held by the same man was not so strong then as it afterwards became. But Paterson's sense of right would not permit him to accept the appointment and he declined it, on the ground that it would interfere with the proper performance of the duties of the position he then held. At the end of his first term he was re-elected, but when peace came, resigned and returned to his profession, opening an office at New Brunswick, where he resided until his death. In 1789, he was elected Senator of the United States Of course, he became a prominent member of that body; his commanding ability and great experience would necessarily place him in the foremost rank of any body of men with which he might be connected. To fully appreciate his services, it must be remembered that this was the first meeting of the Senate under the new Constitution. The members were charged with the duty of moulding and shaping the affairs of the Republic to meet the new situation. Undoubtedly the most important committee of the Senate was that one called upon to grapple with the establishment of the Federal Courts. The exigency was recognized and a strong committee was appointed, of which Paterson was one. The outgrowth of the labors of that commit-

tee was a judicial system, which has received the approbation of succeeding Congresses for more than a century, strongly manifested by the fact that no attempt has been made to change its material features, but only to enlarge its functions.

Governor Livingston died in 1790 and Paterson became Governor without any serious opposition. He was intrusted by the Legislature with the most important work of his life. In 1792, a law was passed that Governor Paterson should collect and revise all statutes which had any force in New Jersey, whether Colonial, State or English. He departed somewhat from the course dictated by the law and not only remodelled the statutes already passed, but also prepared for passage all such British acts as he deemed proper to be re-enacted. Besides this, he was requested by the Legislature to prepare a criminal code. These laws, known as Paterson's Laws, are a lasting memorial of his erudition and are still quoted and relied upon by members of the bar in important cases, especially where questions arise involving principles connected with ancient titles or practice.

He completed his revision about the beginning of the present century and added to his work an act which provided that thereafter no English statute should have any force in the State. To this the Legislature added another provision of the most sweeping character, that no English statute " nor any compilation, commentary, digest, lecture, treatise or other explanation or exposition of the Common Law made, had, given, written or composed since the fourth day of July, 1776 in Great Britain, shall be received or read in any court of law or equity of this State, as law or evidence of the law, or elucidation or explanation thereof, any practice, opinion or sentiment of the said courts of justice used, entertained or expressed to the contrary hereof notwithstanding." In 1801, an amendment was added to this law, providing that any attorney who should offer to read any such book should be deprived of his license. This statute remained on the statute book in full force until 1818, when it was repealed.

Governor Paterson also remodeled the practice of law in the Common Law and Chancery Courts.

In 1793, he was appointed an Associate Justice of the Supreme Court of the United States, which position he held until his death, in 1806. He was not an orator and never attempted to carry any of his points by flights of fancy or eloquence, but by pure logic and sensible judgment.

Governor Paterson was succeeded by Richard Howell, who retained the office from 1793 to 1801. He was born of Welsh parents who came from Wales, in 1729, and was one of twins born, in 1754, in Delaware, but, in 1774, his father came with his family to New Jersey. In November, 1774, it will be remembered that a quantity of tea was destroyed at Greenwich, Cumberland County. Howell was one of the party who seized this tea and burned it. In 1775 he enlisted into the patriotic army and was early selected to fill a subordinate office, but soon, when a little more than twenty-one years old, became Captain in the regiment commanded by Col. William Maxwell and, in a very short time was further promoted to the rank of major. He resigned from the army in 1779 and was soon licensed as an attorney at law. It is claimed that he resigned so as to be able to perform some secret service for General Washington, the nature of which has been kept profoundly secret. A letter written by one of his brothers, in 1837, states that he was arrested for treason and carried before Chief Justice Brearley, told how he exhibited his commission and that Brearley upon sight of the commission ordered him to be discharged and that every record of the court relating to his arrest should be erased. In September, 1788, he was elected Clerk of the Supreme Court and was then residing at Trenton. In the next year General Washington made his triumphant journey to New York for the purpose of being inaugurated as the first President of the United States. His reception at Trenton was a perfect ovation. In the preparation for this reception Howell took a leading part. In 1793, he succeeded William Paterson and held the office of Governor and Chancellor until 1801, when Joseph Bloomfield was elected to fill the office. There is no record of any of his decisions as Chancellor, so that no opinion can be formed of his ability as judge of the court over which he presided. It is more than probable that no important causes were brought to his attention. He died at the early age of forty-nine and left no appreciable impress on the practice or decisions of the common law or chancery.

Joseph Bloomfield, who succeeded Howell, was a Republican and was elected as the candidate of his party, over Howell, who was known as a Federalist. Bloomfield was born in 1755, at Woodbridge, Middlesex County, and was the son of Dr. Moses Bloomfield, a distinguished patriot. He was educated in the schools of the time and entered the office of Cortlandt Skinner, at one time Attorney General of the State and a lawyer of eminence, who, however, embraced the cause of the king and raised a force of 517 men from the tories of the State.

Mr. Bloomfield was licensed in 1775 and commenced the practice of his profession at Bridgeton. He soon went into the army, rose to the rank of Captain of the Third New Jersey Regiment and remained in active service until 1778, when he became Clerk of the Assembly. When William Paterson resigned his office of Attorney General, Bloomfield succeeded him. In 1781, he was elected Governor and held the office until 1812, with the exception of the year 1802, when there was a tie in the vote for that office and no election. Bloomfield's action as Chancellor cannot be appreciated, as there is no record of any of his decisions. The business in the Court of Chancery increased materially during his term of office and some few of his opinions were reported several years after his retirement. He was undoubtedly a man of considerable ability, of unquestioned probity and of great benevolence.

He died in 1825 and was succeeded by Colonel Aaron Ogden, descended from one of the original settlers of Elizabeth Town, who held the office for one year only.

Bloomfield's services during the Revolutionary War were of a distinguished character, but one of the duties which he was called upon to perform must have been very distasteful to him. His former preceptor, Cortlandt Skinner, was at one time favorable to the cause of the colonies, but later on he changed his course and became a Royalist, still retaining his office of Attorney General of this State. A letter which he wrote to his brother, a Lieutenant Colonel in the British army, was intercepted and orders given for his arrest. Captain Bloomfield was deputed to perform that service, but fortunately for him, certainly for the District Attorney, Skinner had, in some manner, received an intimation of his intended arrest and had left the State.

While in the army, Bloomfield was appointed Judge Advocate of that part of it detailed for service in the northern colonies. He became successively Vice-President and President of the Society of the Cincinnati. Governor Bloomfield took a very active interest in public affairs, not only in those relating to the politics of the country, but in many benevolent associations. He was always a prominent citizen in whatever community he lived and his influence was ever exerted for the right. A singular circumstance is related of him, in connection with his office as Chancellor. When he first took his seat, it is reported that he requested that he should not be addressed by the title of "Your Excellency." A very eccentric lawyer was then a practitioner in the court and with great solemnity addressed the Chancellor almost imme-



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diately after this announcement, in these words: "May it please your Excellency: Your Excellency's predecessors were addressed by the title of Excellency, and if your Excellency pleases, the proper title of the Governor of the State was and is, Your Excellency. I humbly pray, therefore, on my own behalf, and on behalf of the bar generally that we may be permitted by your Excellency's leave, to address your Excellency, when sitting in the High Court of Chancery, by the ancient title of Your Excellency." There was no further demur, after this, on the part of the Governor, as to the mode in which he should be addressed. He was twice elected a member of Congress and died in 1825.

His successor, Aaron Ogden, was a man of decided characteristics. He was born at Elizabeth Town, in 1756, graduated very early from Princeton College and soon afterwards became assistant teacher in a school where Alexander Hamilton, Gov. Livingston and Judge Brockholtz were pupils. This was during the years 1776 and 1777, at a time when able bodied patriots were needed in active service in the army and both teacher and scholars volunteered. Mr. Ogden rapidly rose to the rank of Brigade Major and Inspector, one of the most important offices in the army, now abolished. He participated in several battles during the war and gained a great reputation as an efficient and accomplished officer. At the close of the war he returned to Elizabeth Town, became a student-at-law with his brother Robert and was licensed a year afterwards, notwithstanding the rule which required an applicant for license to have pursued a course of several years' study. He began the practice of law at Elizabeth Town and soon secured a large business. An examination of Coxe's Reports, the first book of reports of causes in the Supreme Court ever published, beginning with the April term, 1790 and continuing for three years, reveals the fact that Mr. Ogden was very often employed in cases in that tribunal. He possessed some of the very best characteristics of a good lawyer and would undoubtedly have risen to a higher rank than he actually did, if he had continued in the profession. But, he was an ardent Federalist and was led into the political arena which interfered materially with his legal practice. In February, 1801, he was elected to the Senate of the United States, which office he held for two years, succeeding to the unexpired term of Senator Schureman. At the expiration of his term as Senator, the party in opposition gained control of the Legislature and he was not re-elected. He became, however, Clerk

of the County of Essex, an office which could then be held by a practitioner in the Courts. Soon after this he became engaged in a controversy with Thomas Gibbons which resulted in reducing him from prosperity to almost actual poverty. The controversy originated in a rivalry between Col. Ogden and Mr. Gibbons in the steamboat business. The Legislature of New York had granted the exclusive right to Livingston and Fulton to navigate the waters of that State with steam vessels, for a term of years. Col. Ogden, in connection with Daniel Dod, started a line of steamboats between Elizabeth Town and New York. In retaliation, the Legislature of New Jersey passed a statute granting exclusive privileges to Ogden and Dod. An attempt was made to repeal the New Jersey statute and the parties appeared with their Counsel before a committee and were heard. Livingston was represented by Thomas Addis Emmet, and Ogden and Dod by Samuel L. Southard and Joseph Hopkinson. The result was that the New Jersey law was repealed. Violent disputes originated in the courts and both Legislatures were appealed to. During these controversies Thomas Gibbons appeared on the stage, in opposition to Ogden and Dod. He was a lawyer of consummate ability, a man of large means, of untiring energy, of an iron will and capable of employing means to attain an end which some honest men thought questionable. Suit after suit was brought and the controversy at last assuming a personal character, challenges passed between the parties. Colonel Ogden was dogged and persevering in his attempts to secure his rights. No aspersion could be justly made against his character; that remained untarnished; but, in the end he was defeated after a most harassing conflict. He lost his fortune, his wife died and he never recovered the position which he formerly occupied. This same Thomas Gibbons was remarkable for wit and sarcasm, in the use of which, in cases where he appeared as Counsellor, he exceeded the most of men. At the time of one of the many controversies between him and Governor Ogden, his son-in-law, John M. Trumbull, had been subpoenaed as a witness, but had failed to appear. Gibbons, who had quarreled with Mr. Trumbull, as, in fact, with almost all the members of his family, seized the opportunity to wreak his vengeance and applied to the Supreme Court of New Jersey for an attachment for contempt. He appeared before that tribunal in support of the motion; Richard Stockton representing Mr. Trumbull, injudiciously reflected upon the character and motives of Gibbons. This opened the door for a witty and sarcastic reply. Gibbons had

become very fat and unwieldy; he requested permission from the court to remain seated, and poured out volumes of invective, which even the dignified Chief Justice Kirkpatrick and his associates, Southard and Rossell were unable to withstand. The Court, the Counsel and the spectators indulged in roars of laughter until the court room resounded with the peals. Joseph Warren Scott, then in the prime of his life and a distinguished Counsellor, left his seat and ran to a place where he was concealed from the view of the judges, danced up and down and clapping his hands, shook with uncontrollable mirth. It was some time before the dignity of the court could be restored.

In 1829, Governor Ogden was arrested for debt in New York and refusing the proffered aid of his friends, remained in confinement for several months, being finally released by an act of the Legislature providing that no Revolutionary officer or soldier should be imprisoned for debt. The law was so framed as to cover the case of Col. Ogden, and he was released. He died in 1839; his last days were solaced by his appointment to the office of Collector of Customs of Jersey City, created especially for him by act of Congress. In 1813 he was succeeded by William S. Pennington, who was followed, in 1815, by Mahlon Dickerson. The biographies of these two last named gentlemen have already appeared among the justices of the Supreme Court.

Mr. Dickerson was succeeded by Isaac H. Williamson, who held office for twelve years. He was descended from one of the oldest and most respected families in Elizabeth Town. He did not have the advantages of a collegiate education, graduating from a common school. Entering the office of his brother, Matthias Williamson, he was licensed in 1791 as an Attorney, as a Counsellor in 1796 and was made a Sergeant-at-law in 1804. He began practice in his native place, where he had many distinguished men as competitors, among whom was Aaron Ogden, twelve years his senior. Col. Ogden, in after years, speaking of the ability of the young attorney, gave him great credit for talent and acknowledged that he was becoming a very dangerous rival. Mr. Williamson's practice was not confined to his native County. In his day, the Attorney Generals were permitted to appoint deputies to prosecute the pleas in the different counties and young Williamson was made Deputy for the County of Morris, which office he filled for several years with distinguished ability. He was remarkable for great accuracy in drafting indictments and other legal papers. His ability in this respect became so well-known that lawyers found it very safe

for them to use his drafts as precedents in their own practice. It is said of him that he never made a mistake in drawing any legal paper. There perhaps never was a lawyer at the bar of New Jersey more safe as an adviser than Isaac H. Williamson. His perception of legal principles seemed to be intuitive and he easily grasped the most intricate questions. He revelled in abstruse legal problems and gave up his whole mind and heart to the acquisition of legal lore. He could not be tempted from his profession to any participation in party politics and his reading outside of his profession was of such a character as would aid him in discharging the duties incumbent upon him as Counsellor and Advocate. He read history, examined mathematics, studied political economy and abstruse sciences, but they were all used by him as aids and adjuncts in the prosecution of his legal studies. Light literature he never touched and it is doubtful whether he ever read any poetry at all. He was a very able advocate and a successful one. He was, perhaps, the profoundest jurist that ever adorned the Court of Chancery and yet his style both in speaking and writing was faulty. No scholar can read his published opinions without desiring to criticise them. He succeeded Mahlon Dickerson as Governor, in 1817. His election occurred at a time when party politics ran high and when the parties were about equally divided. He had only a majority of seven in the joint meeting that elected him Governor. His opposing candidate was Joseph McIlvaine and strange to say, it was not so much a question of fitness and ability, or even of politics, as of locality that decided his election. He was re-elected for twelve years, without serious opposition, but in 1829, the Democratic party, under the leadership of Gen. Jackson, became overwhelmingly powerful and he was obliged to give way to Peter D. Vroom. He preferred the practice of law to the position of Chancellor, but no man was better equipped as an Equity Judge than Isaac H. Williamson. His salary was only about $2,000, but, in addition to this, there were some fees connected with the office, which if they had been collected, would have made the income from the office quite respectable. When Governor Williamson assumed the duties of Chancellor the business in his court was quite unimportant, but the profession soon learned that a master mind was in control and the court gradually became very busily engaged in settling disputes between suitors. Governor Williamson worked very many important changes in the practice of his court, making himself familiar with the principles governing the

English tribunals of Equity, after which that of New Jersey was modeled and introducing these principles to the very great advantage of members of the bar and of their clients. Adequate remedies, before his time, had never been afforded to mortgagees for the foreclosure of mortgages, but he introduced a system by which full relief was given to persons holding this kind of security and the perfect method now adopted by the court to meet every exigency that might arise in suits of foreclosure, owe their origin, in many cases, to Chancellor Williamson. Unfortunately there is no book of reports of cases covering his time; this is much to be regretted, as doubtless stores of legal wisdom, suggestions and decisions with reference to the principles involved in the practice of courts of equity would be discovered in his opinions. One case in which he delivered an opinion is reported in 3d Stewart, 145. No Chancellor prior to his time ever conferred more dignity on the court or impressed himself as more deserving the respect and confidence of the community than did Isaac H. Williamson.

Governor Williamson returned to the bar after his failure to be re-elected Chancellor and very soon secured a lucrative practice. He was engaged in almost every important cause, on one side or the other, which was brought into the courts. In 1832, Chief Justice Ewing died and all eyes were turned to Mr. Williamson as his successor, but he declined the nomination, giving as his reason that his mind for so many years had been directed to equity jurisprudence that he feared he was unfitted to assume an office where the rules of the common law must govern.

Notwithstanding his aversion from political life, he was elected for two years to the Council from Essex County, and in 1844, became a member of the Constitutional convention, of which body he was unanimously made the President. His health failing he was unable to meet with that important body during the latter part of its sessions and died before the year closed, at the age of seventy-seven. Although he was not a graduate of any collegiate institution, Princeton conferred upon him the degree of LL.D., as a mark of respect from the trustees over whom he had presided for more than twelve years.

Governor Williamson was one of the most genial of men, his laugh was an inspiration, trilling out like a child's, full of life and soul. He was of a merry disposition and enjoyed the society of friends, loved a joke, enjoyed a song, but never lost his personal dignity. He was the life of any company and the younger members of the bar loved him for his

kindness; he never repelled them, listened to them with patience, corrected their errors and aided them by his advice and counsel. The members of the profession, in his time, were more sociable in their habits than at present; they loved to gather together; there was an *esprit de corps* among them and Isaac H. Williamson aided more than any other man in strengthening the bond of friendship. At the termination of Governor Williamson's last term, in 1829, the Democratic party became successful throughout the Republic and elected Gen. Jackson President of the United States. Its success in New Jersey brought new men to the front in the political arena. Williamson was one of the last of the great men of New Jersey to adhere to the Federalists and although he was recognized as eminently fitted for the office of Governor and Chancellor, and could have been reappointed in ordinary times, when party spirit was not so decided, the successful Democrats were now determined to sweep their old opponents from office and to put their own political friends into position and power.

Garret D. Wall had been known and recognized as a leading Federalist only a few years before the election of General Jackson, but he gave in his adherence to the Democratic party, acted with it and aided materially in securing its success in New Jersey. So, when the Legislature convened, he was elected Governor but declined. Peter D. Vroom had also acted with the Federalists but now, he too, had gone over to the Democratic party and when General Wall declined the appointment Mr. Vroom was selected and held office until 1832. By this time the Federalist party had ceased to exist and a new one arose—the Whig party. This did not succeed to the principles of the Federalists nor did it assume them. Those who favored the extinct political organization were divided in their future affiliations, some going to the Democratic and some to the Whig party. Different political principles came to the front which were recognized by the new organizations. In 1832, Samuel L. Southard was chosen by a Whig Legislature, but he only remained in office for one year. Elias P. Sealey succeeded Governor Southard, in March, 1835, for the balance of his term, which expired in the fall of that year. He was a Whig and when the Democratic party came into power, in 1833, Governor Vroom was re-elected. Mr. Sealey was of Puritan descent, his ancestors removing from Connecticut in 1698, to Cumberland County, New Jersey. His father was a prominent man in that County for several years. He was licensed in 1815 as an attorney. He was not a graduate of any college and only

received a common school education. He tried very few causes and was not distinguished as an advocate. He was elected to the Council from his county, in 1829 and continued in that office for three or four sessions; in 1832, he was made Vice President of that body. None of his opinions are reported. The most important case before him is that already referred to of Hendrickson vs. Decow, the celebrated Hicksite and Orthodox Quaker cause. He referred this case, as has already been stated, to Chief Justice Ewing and Associate Justice Drake, whose opinions he adopted in deciding it. It was carried to the Court of Errors where the decree of the Chancellor was affirmed, but not by a unanimous vote. After his retirement from the office of Chancellor, Mr. Sealey was several times a member of the Legislature, and died in 1846, at the early age of fifty-five years.

Peter D. Vroom was the son of a gentleman of the same name, who took a prominent part in the Revolution and attained the rank of Colonel in the Revolutionary Army. He was a very prominent citizen in his time, and was one of the representatives of the Dutch element so predominant in the County of Somerset. His distinguished son was born at Hillsborough in that County, in 1791, was prepared for college at the Somerville Academy and, in 1808, entered the Junior class of Columbia College, in the City of New York and graduating in 1809, entered the office of George McDonald, an attorney, of Somerville and was licensed as an attorney in 1813, becoming counsellor in 1816 and a Sergeant at law in 1828. He does not seem to have been fortunate in his early locations, settling first at Schooley's Mountain in Morris County, where he remained about a year and a half, then removing to Hackettstown, and, after two years, locating at Flemington. These different changes did not aid him in acquiring practice, but he did have a degree of success. While at Flemington, he met a Miss Dumont, a daughter of one of the most distinguished families of his native County, whom he afterwards married. The effort which first gave promise of his future success was made by him in the case of Kline vs. Ramsey, which was so able as to receive a very pronounced encomium from Chief Justice Kirkpatrick. From Flemington, he removed to Somerville and remained there about twenty years. He never ceased to regret his numerous changes and it is quite certain that if he had carried his native talents to some large city he would have met with success earlier in life. About the year 1824, the Republic was convulsed with political strife, when Gen. Jackson came to the front as

a prominent candidate of the Democratic party for President. Mr. Vroom and his father had always been consistent Federalists, but now they supported the new party. It was charged by the leading Federalists in New Jersey that Adams had deserted their organization and had connected himself with that of which Thomas Jefferson was the leader. Mr. Vroom represented the County of Somerset in the Lower House of the Legislature for three terms—1826–27 and 1829. The Democratic majority in the Legislature, in 1829, was overwhelming and it resolved to elect members from its own organization to all offices within its gift. As has already been stated, Governor Williamson's term expired in 1829; Garret D. Wall was named as his successor, but he declined and Peter D. Vroom was elected by the ruling party, as Governor. The position was an exceedingly delicate as well as a difficult one. The peculiar fitness of his predecessor for the office of Chancellor might well make the new appointee doubtfnl of his own success. Williamson had proved himself equal to every emergency during the whole time he occupied the position of Chancellor. Vroom lacked some of the characteristics that so eminently fitted the retiring Governor for the performance of the duties of the highest judicial office in the commonwealth, and cannot be called his peer, but was nevertheless admirably equipped. He was an independent thinker; his anxiety to reach a correct conclusion might lead an ordinary observer to infer that his mental processes were not rapid; his mind really moved with great celerity and he easily grasped ideas; his judgments were accurate and rarely overruled. His practice at the bar gave him unmistakable advantage in the sifting of human testimony. The system then prevailed of reducing the evidence of witnesses in his court to writing through the medium of masters and examiners. He had no Vice Chancellors but was obliged to meet the requirements of his position alone. Every detail connected with a case received his attention and an examination of the reports during his term of office reveals the fact that he gave untiring industry to the examination of the cases submitted to him. The first book of equity reports, published in the State, is that collected by Nathaniel Saxton and begins with the opinions of Governor Vroom. He could not have profited by the opinions of his predecessors as none were published. In one respect the bar have been very much benefited by Chancellor Vroom's opinions; his precedents, forms of decrees and other papers were very

correct and valuable. He held his office until 1832 when, as before stated, Samuel L. Southard became Chancellor for one year.

In 1833, Vroom was re-elected and held the position for three years. His health then failing, he retired from public life and resumed his practice at Somerville. In 1837, President Van Buren appointed him a commissioner to settle certain claims under a treaty made with the Choctaw Indians which made it necessary for him to remain in Mississippi for several months. In 1838 he was elected on the Congressional ticket a representative to Congress. But his election and that of several of his colleagues on the Democratic ticket was disputed in consequence of some technical questions arising upon certificates of the returns of votes and this gave rise to the celebrated "Broad Seal War." There was no doubt that the Democratic ticket, in that election, received the majority of votes and, after a severe contest, he was admitted to a seat in Congress. By this time he had removed to Trenton, where he resided up to the time of his death. After his removal he was elected to the Constitutional Convention from Somerset county, although not then a resident there. He took a leading part in this Convention, was chairman of one of the most important committees and resisted several innovations upon the jurisprudence of the State proposed to the Convention. Two years after the adoption of the Constitution of 1844, in connection with Henry W. Green, Stacy G. Potts and William L. Dayton, he revised the statutes of New Jersey, making a thorough revision so as to adapt past legislation to the new Constitution. Shortly after finishing this great work, Governor Fort, a Democratic Governor, nominated him for Chancellor to succeed Henry W. Green, but he at once declined. In 1852, he became a Presidential elector and voted for Franklin Pierce for President. In 1853, President Pierce tendered him the appointment of minister to Berlin, which he accepted and remained attached to the Prussian court until 1857, when, at his own request, he was recalled and returning to Trenton resumed the practice of his profession. After this, he confined himself almost exclusively to arguments in the higher courts, upon appeals brought up by writs of error and other process. In 1861, the alarming state of affairs in the Republic led the Legislature of Virginia to call for the appointment of commissioners by all the States of the Union to meet in what was afterwards known as the "Peace Congress." The proposal from Virginia involved the selection of men of

the highest character, representative of both the great political parties, conservative in their views and patriotic in their intentions, who should meet together and, if possible, present such measures as would preserve the Union. Mr. Vroom was one of the nine men selected to represent New Jersey. From a letter written at the time by one of the commissioners, this extract is given for the purpose of showing the respect and confidence entertained for him. A committee of one from each State had been appointed to whom were referred resolutions offered by the State of New Jersey to the Peace Congress. This communication relates to the meetings of that committee: "The meetings of this committee were numerous and protracted and the labors of the members arduous and exhausting and Governor Vroom was a punctual, faithful and patient member of that committee. The New Jersey delegates were in the habit of assembling after each meeting and receiving from him a full account of the proceedings of the discussions which had taken place. These statements were made with that clearness and precision so characteristic of Governor Vroom. And, I am bound to add, that in all our conferences and consultations we found him ever calm, sagacious and patriotic. Our intercourse with him during the protracted session of the conference was exceedingly pleasant. He was uniformly kind, gentle and acceptable and his colleagues naturally and justly regarded him as the Nestor of the delegation, both as regards age and wisdom." Mr. Vroom was an earnest Democrat, but he was a sincere patriot. He devoted all his energies, all the treasures of his intellect while a member of the "Peace Congress" to the establishment of the Union and with forceful energy strove to bring together the people of the North and the South by the adoption of a plan which would act as a compromise and relieve the country from the embarrassments consequent upon the action of the radicals on both sides. In this he had failed. He was a great stickler for the Constitution and, while supporting the war on the part of the North, insisted that war should be conducted in a constitutional manner and simply for the purpose of restoring the union of the States. When that was accomplished he claimed that all was done that could be done within the limits of the organic law of the Republic. In this view he was entirely honest—acting according to the opinions he had formed from a careful investigation of the whole case. His patriotism was strongly manifested in a public meeting which he

addressed in Somerset, in 1863. A draft had been ordered, the opposition to which was so strong that it was feared riots might ensue. His speech was conservative and strongly Democratic in its tendencies, but it rang with the true spirit of patriotism and its influence was felt beyond the limits of the County in which it was delivered. Mr. Vroom lived to be more than fourscore years of age, in the full possession of his faculties, able almost up to his last days to argue a case with as much ability as ever and died at Trenton, at an advanced age.

Philemon Dickerson succeeded Mr. Vroom and held the office for one year. He was the brother of Mahlon Dickerson, was licensed as an attorney in 1813, as a Counsellor in 1817 and in 1834 was made a sergeant-at-law. This office of sergeant-at law,—a survival of the English courts—was one eagerly sought after by the practitioners of one hundred and more years ago. It had certain privileges connected with it which made it somewhat important, but the main reason which induced lawyers to seek it was the honor which attached to it. Sergeants were selected by the court from the counsellors according to their supposed fitness for the position. While the office existed, it created jealousy and there was much dissatisfaction; so, the court was induced, soon after the beginning of the Nineteenth century, to abolish it. Those appointed to examine applicants for license as attorneys and counsellors were selected from the sergeants and they only were entitled to pass a common recovery in the Supreme Court. Mr. Dickerson removed from Philadelphia to Paterson and commenced the practice of his profession there. In 1833, he was elected a member of the Assembly from Essex County and in 1836 was chosen Governor by the Democratic party, but he only held the office one year. In 1839, he ran for Congress on the Democratic ticket, but his election was disputed for some defect in the returns of votes from some of the townships. In 1841, he was made Judge of the District Court of the United States for the District of New Jersey, which office he held until the time of his death, in 1862. Although Governor Dickerson's term of office was limited to one term, yet he made one or two decisions of great importance, which gave proof of his fitness for the position of Chancellor. His opinions are found in Green's Chancery Reports. One of these was that of the Associated Reformed Church *vs.* the Trustees of the Theological Seminary at Trenton. This case involved very important and delicate questions respecting the rights and duties of

ecclesiastical organizations. His opinion was elaborate, learned and showed great research and was acquiesced in by the parties. The other case was that of Hulme *vs.* Shreve, which involved the rights of owners of streams to back water upon their neighbors' farms. In this case Chancellor Dickerson made a personal examination of the ground and presented an opinion from which no appeal was taken. Governor Dickerson was succeeded by William Pennington, the son of William S. Pennington, already noticed both as Judge of the Supreme Court and as Chancellor. Young Pennington was born in Newark, in 1790. He was educated in the schools of that city, and in Princeton College, graduating at that institution in 1813. He studied law in the office of Theodore Frelinghuysen, but the tradition is that he was not a very hard student, in fact, the story is that as he left the office of his preceptor, Mr. Frelinghuysen said to him, rather jocularly: "I hope now you will attend more to your books." He was licensed as an attorney in 1817, as a counselor in 1820, was appointed a sergeant-at-law in 1834. He continued his residence in Newark where he opened an office and at once secured a very valuable and lucrative practice. He was genial and made himself one of the most popular men of his time; possessing a remarkable presence with a familiarity that bred no contempt, he made himself accessible to all; with the most agreeable manners, with a pleasant smile for every one, he ingratiated himself into the favor of all he met. He was remarkable for many characteristics which command success in his profession. He had a mind of no common order—independent in his thought, far reaching in his intuitions, with great discrimination and a most excellent judge of human nature, he was enabled to supply any deficiency resulting from his lack of industry while a student. He was a born lawyer, easily mastering the principles involved in any case submitted to him and realizing with the promptness of genius and the alertness of a well-balanced mind the real points at issue, he never failed to arrive at a proper conclusion. He was essentially an all-rounded man. To all these characteristics he added great common sense and that kind of judgment which enabled him to decide the proper course to pursue and the proper decision to make. He became a politician early in life, not in the sense of the modern demagogue, who gives himself up to devices not at all honest, but a true politician, in the best sense of the word. He believed in the party to which he belonged, not so much because it was his party, but

because he believed it to be the most patriotic. He was ambitious, but his ambition was laudable; he loved office and craved distinction not because of the personal benefits that accrued to him, but for the reason that he honestly thought he could serve his country and advance its interests in the positions he craved. He was of the strictest integrity and nothing evinced this more than the fact that he was placed at the head of several moneyed institutions and was intrusted with the care of valuable estates as trustee and executor.

His father had been appointed judge of the District Court of the United States for the District of New Jersey and the son was made clerk of the court. It was, however, almost a sinecure; very little business was done in the court, the sessions rarely lasting more than a day or two. He united himself with the Whig party and was identified with that organization so long as it had an existence. After its disintegration he became a leader of the Republican party and continued faithful to its principles until the time of his death. In 1828 Mr. Pennington was elected a member of the Assembly from Essex County and, in 1837, was chosen Governor and Chancellor, which office he held until 1843. Governor Pennington was one of the most industrious of Chancellors. Causes in his court received the fullest attention and whenever investigation was necessary, he did not fail to examine all the cases involved with untiring industry. His decisions gave universal satisfaction and it is believed that he was never overruled more than once during the whole six years of his term of office. He was peculiarly fitted for the performance of the duties of Chancellor. His strong, comprehensive mind enabled him to grasp the salient points in cases and his intuitive perception of the differences between right and wrong, so necessary in an equity Judge, never failed him. Aided by his good sound common sense he struck at the very heart of the matter under consideration. The one case where he was overruled turned upon a doubtful principle and the weight of legal opinion sustained his judgment. As Chancellor, he was presiding Judge of the Court of Errors and his influence over that high tribunal was wonderful; possessing the confidence of all its members, who were satisfied of the purity of his motives, he never failed to secure their acquiescence in his views. Although a strong political partisan he never suffered partisanship to influence his decisions as Chancellor. No one dared question his entire integrity as a judicial officer and his conduct while in

office has added strength and dignity to the Equity Court and preserved for it the respect not only of Counsel and suitors in New Jersey, but also of courts in other States. After he left the office of Chancellor he returned to Newark and at once secured a large part of his former practice as well as new clients.

In 1858, when party lines ceased to be drawn and sectional discord prevailed, William Pennington was elected to Congress. He did not seek the nomination; it was forced upon him by one of the most enthusiastic conventions ever held in the State. When he reached Congress with no expectation of being a candidate for any office of that body, he found a most alarming state of affairs existing. Several nominations were made for Speaker and the balloting continued for two months. The story of that momentous time has been told by the Honorable John T. Nixon, a colleague of Pennington in Congress, and published by the New Jersey Historical Society. After a protracted struggle, Governor Pennington was elected Speaker, as a compromise. He was not at all acquainted with the nice distinctions of parliamentary ruling, but made a wise and impartial presiding officer and retired from the position at the close of the session, with the respect of all parties. He was nominated for a re-election, but failed to secure it and continued in his practice up to a short time prior to his death which occurred in 1862. He was distinguished for one social peculiarity—his love of humor, and sometimes could rise to the dignity of pure wit. He was a social man, delighting in the society of his friends.

Daniel Haines was the last Chancellor under the Constitution of 1776. A sketch of his life has been given amongst the Justices of the Supreme Court.

Since the Constitution of 1844, the following gentlemen have been Chancellors:

Oliver S. Halsted	1845–1852.
Benjamin Williamson	1852–1860.
Henry W. Green	1860–1866.
Abram O. Zabriskie	1866–1873.
Theodore Runyon	1873–1887.
Alexander T. McGill	1887.–

Sketches of these gentlemen will appear in another part of this history.

The limits of this work will not permit the further discussion of the history of New Jersey since the adoption of the Constitution of 1844. That history is accessible to all. The Commonwealth of New Jersey has ever stood foremost among the States of the Republic for its patriotic efforts to sustain the Constitution of the country. The administration of justice has been a synonym of honesty and ability. Every Jerseyman has been enabled to point with pride to the jurisprudence of the State as administered by its Courts and Judges.

PART II.

BIOGRAPHICAL REGISTER.

EDWIN GALLOWAY ADAMS, Newark, born in Fond du Lac, Wis., March 30, 1873, is a son of Major Kelsey M. and Ella (Lewis) Adams; he attended the high school of his native city, and was graduated from Phillips Exeter (N. H.) Academy in June, 1891. He studied for three years at the law school of Columbia College in New York, taking the degree of LL.B. in June, 1894, and afterward read law with former Judge J. Frank Fort, of Newark, N. J. He was admitted as attorney at the November term at Trenton in 1894, and is now a member of the firm of Adams & Feldmann, of Newark. He resides at Montclair, N. J.

HORACE L. ALLEN was born in Monmouth county, N. J., November 15, 1869, son of Joseph L. and Catherine M. Allen. He was graduated from Hasbrouck Institute in Jersey City in 1886, and entered Princeton College in the following fall, but left at the commencement of his junior year. He read law in the office of James F. Minturn, corporation attorney of the city of Hoboken, and in 1891 entered Columbia Law School in New York, where he completed a full legal course. He was admitted to the bar of New Jersey at the November term, 1891, and as counselor at Trenton, February term, 1895. He was elected a member of the Board of Education of Hoboken in the spring of 1895, and in the fall of the same year was elected member of assembly from the Tenth district of Hudson county. He is counsel to the Board of Health of the city of Hoboken.

GEORGE A. ANGLE, Belvidere, born in Rocksburg, Warren county, N. J., September 9, 1853, is a son of Richard and Catherine A. (Depue) Angle, and was graduated from Lafayette College at Easton, Pa., in 1876. He read law in Belvidere with J. G. Shipman & Son, and was admitted as attorney in June, 1879, and as counselor in November, 1882. He served as mayor of the city of Belvidere in 1890, 1891, and

1892. In the spring of 1896, he was appointed prosecutor of the pleas of Warren county, by Governor Griggs, for a full term of five years.

W. Holt Apgar, Trenton, was born at Annandale, Hunterdon county, N. J., May 18, 1861, son of Henry F. Apgar and Hannah M. Apgar. The first Apgars in this country (two brothers) came from Germany about one hundred and fifty years ago. His mother was of German and Irish descent. He was graduated from the State Normal School at Trenton, and his law studies were conducted with Hon. John N. Voorhees, of Flemington, N. J., and with W. D. Holt, of Trenton. At the June term of the Supreme Court in 1884 he was admitted as an attorney, and as counselor at the February term in 1890.

Mr. Apgar held the office of assistant prosecutor of Mercer county from 1888 to 1894, and since 1891 has been and is now president of the Park Commission of Trenton. He has earned a leading position among the criminal lawyers of the State through his connection with many of the important trials of late years. He was connected with the Shann poisoning case; Koccis, Haddock, and Walwitz murder cases; Robinson vs. Hyde, a famous *crim. con.* case in Mercer county; McDermott vs. Barnum-Bailey show, for damages for death of a son of plaintiff by a blow struck by an employee of the defendant. In every one of these cases, except the Shann murder case, the victory was on the side of the parties represented by Mr. Apgar. He did considerable newspaper work between 1882 and 1890, which included more or less service for the New York World, and Times, the Philadelphia Press, and several New Jersey dailies. He was the successful nominee for State senator from Mercer county in 1892.

September 10, 1884, at Three Bridges, N. J., he was married to Rettie R. Higgins, daughter of Asher Higgins (deceased) and Anna C. Case Higgins, of Flemington, N. J.

Edward Sanford Atwater, Elizabeth, born in Fairfield, Conn, February 8, 1843, is the son of Rev. Lyman H. Atwater, D. D., LL. D., for thirty years professor of political science at Princeton College and a well-known writer of political science, philosophy, and theology. He was graduated from Princeton College in the class of 1862, read law in Princeton, N. J., with John F. Hageman, and was graduated from Columbia Law School in 1866. He was admitted to the New Jersey bar as an attorney in June, 1866, and as counselor in February, 1870, has served as a member of the Elizabeth Board of Education and City

Council and as superintendent of public schools, and in July, 1895, was elected city attorney. He is now judge of the District Court of the city of Elizabeth. He was counsel in the important case of Winans vs. Commissioners of Highways of Cranford, 29th Atlantic Report, 429, and has contributed valuable articles to the State Board of Health on legal points involved.

Edmund A. Backer, Morristown, born March 21, 1838, in Morris county, N. J., is a son of Benjamin and Mary (Norris) Backer, whose ancestors were early settlers of that section of the State. He has served as a member of the Board of Chosen Freeholders, member of the Common Council of Boonton, and member of the Board of Education, and in 1893 was elected sheriff of Morris county by a flattering majority. His wife, Maria A., is a daughter of George M. Gage.

Daniel Barkalow, Paterson, born in Basking Ridge, Somerset county, N. J., in 1808, attended Dr. Brownlee's academy in his native town, and was graduated from Princeton College in 1826. He read law with Gov. Peter D. Vroom at Somerville, and was admitted to the bar of this State as attorney in 1829 and as counselor in 1832. He practiced his profession in Paterson, N. J., with eminent success from about 1829 until his death in September, 1866, being one of the most active and prominent members of the Passaic county bar. He served as prosecutor of the pleas for ten years from 1847 to 1857.

John Swartwout Barkalow, Paterson, born in Somerville, N. J., November 11, 1834, is a son of Daniel and Henrietta (Swartwout) Barkalow, and was graduated from Yale College in 1854. He read law with his father, for many years a leading lawyer of Paterson, and was admitted to the New Jersey bar as attorney in November, 1857, and as counselor in June, 1864. He was city attorney of the city of Paterson from April, 1864, to April, 1866, and from April, 1867, to April, 1868, and county judge of the county of Passaic from April, 1871, to April, 1881, a period of ten years; in March, 1896, he was appointed one of the judges of the Court of Errors and Appeals of the State of New Jersey.

Halsey M. Barrett, Newark, born July 14, 1852, in Cornwall, Orange county, N. Y., is a son of James M. and Sarah F. (Randolph) Barrett and grandson on his mother's side of Hugh F. Randolph, of Bloomfield, N. J. He was graduated from Phillips Academy at

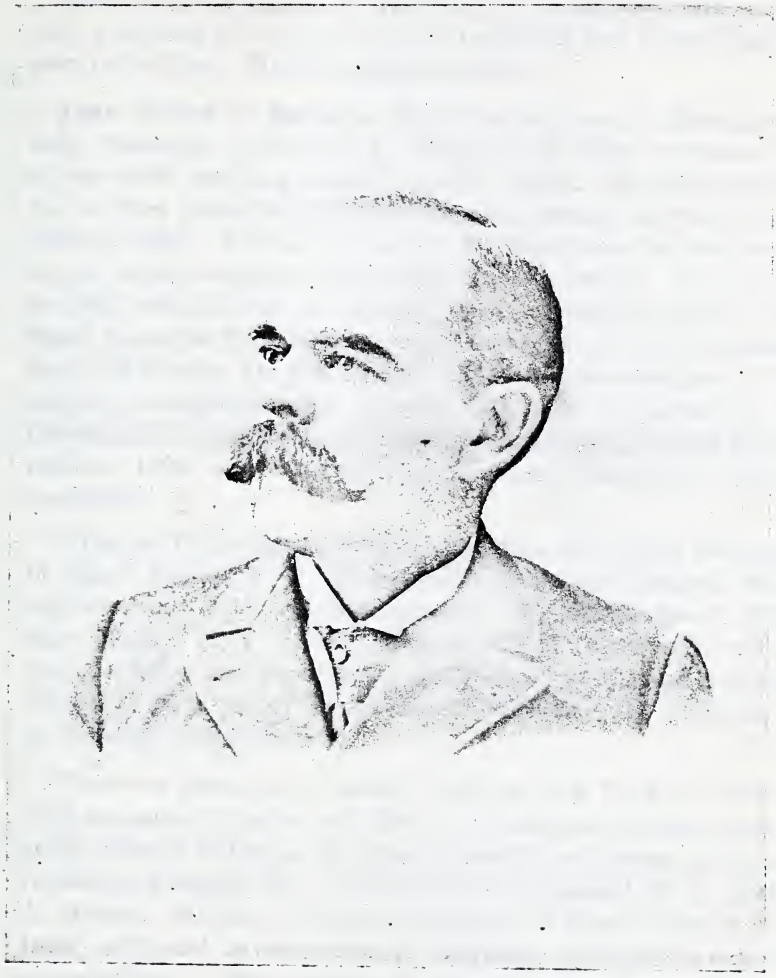
Andover, Mass., in June, 1870, read law in Newark, N. J., with Hon. John Whitehead and Hon. Amzi Dodd, and was admitted to the New Jersey bar in that city as attorney in June, 1878, and as counselor in June, 1881. He was assistant actuary of the Mutual Benefit Life Insurance Company of Newark from November, 1870, to January 1, 1877. Mr. Barrett has resided in Bloomfield, N. J., since October, 1865, but has his law office in Newark.

Michael T. Barrett, Newark, born in Belleville, N. J., August 9, 1856, was educated at the Christian Brothers' School in Newark, and was admitted to the bar of this State in February, 1879. In 1886 he was elected to the Assembly from the then Fifth district of Essex county by a plurality of 437, and in 1887 was defeated for senator by A. F. R. Martin, the Republican nominee. In 1890 Gov. Leon Abbett appointed him on his personal military staff with the rank of colonel, and when Governor Werts succeeded Governor Abbett he also appointed Mr. Barrett on his staff.

In 1890 Mr. Barrett was elected State senator from Essex county by a plurality of 1,931, being the first Democratic senator chosen in that county for a quarter of a century; he was leader of the Senate during 1892 and 1893; he also served as chairman of the Committee on Engrossed Bills and Sinking Fund, and as a member of the Committee on Judiciary, Revision of Laws, State Prison, and others of equal importance.

John D. Bartine, Somerville, born near Princeton, N. J., October 15, 1836, the son of Joseph F. and Nancy S. Bartine, was graduated from Lawrenceville High School and read law in Princeton with John F. Hageman. His ancestors were French Huguenots. He was admitted to the New Jersey bar in June, 1865, and the same year began the practice of his profession in Somerville, N. J., where he has since resided. He was counsel in many of the most important cases ever tried in Somerset county, such as the Vanarsdale murder case, the Van de Veer will case, the Ten Eyck vs. Runk water-right case, the County vs. Cory trial, the Dr. Tompkins case, the Cook and Oakey case and many others. He has been president of the Somerville Board of Education, and of the Board of Commissioners, and prosecutor of the pleas, and is now serving his third five year term as law judge of Somerset county, having been first appointed to that office in 1885.

In 1868 the College of New Jersey (Princeton) conferred upon Judge



GEORGE A. ANGLE.

Bartine the honorary degree of Master of Arts, and in the same year he married Miss Maggie, daughter of Isaac and Mary Van der Veer, of Rocky Hill, N. J.

HORATIO N. BARTON, of Trenton, N. J., attorney and counselor-at-law, was born in that city and has practiced law there since his admission to the bar. He still practices there.

JOHN WOODHULL BECKMAN, Perth Amboy, born in Montgomery township, Somerset county, N. J., February 28, 1846, combined the study of law with teaching school for four years. He was admitted to the bar of New Jersey in 1875 and was city attorney for Perth Amboy from 1877 till 1895. He was also school commissioner for two years, during one of which he served as president of the board. In 1891 and again in 1892 and 1893 he was elected to the Assembly on the Democratic ticket from the First district of Middlesex county, by increased majorities, and during his first and second term was chairman of the Committee on Railroads and Canals. He was appointed by President Cleveland United States attorney for the District of New Jersey in September, 1894, and held that position until February, 1896, when he resigned.

WILLIAM H. BELCHER, Paterson, born on the 17th of December, 1851, in Eagle Valley, N. Y., is the son of John and Eleanor Belcher, and was educated in the common schools. He studied law in Walden, Orange county, N. Y., in the office of Lewis Hasbrouck, and also with Eugene Erley and Peter Ryle, at Paterson, N. J., and was admitted to the bar of New Jersey as attorney in February, 1890, and as counselor in the same month in 1893.

WHEATON BERAULT, Vineland, born in New York city December 17, 1849, is a son of Charles and Mary A. (Anderson) Berault, was educated at St. Mary's College, Montreal, Canada, and Pennsylvania Military Academy, Chester, Pa., and read law in Vineland, N. J., with William A. House. He was admitted to the bar of New Jersey as attorney in June, 1879, and as counselor in February, 1895, and is supreme court commissioner. He was special counsel in the Knox (1889) and Feihl (1894) murder cases.

MARTIN V. BERGEN, Camden, born at Kingston, Mercer county, N. J., was educated at Princeton College, and read law in Camden with Peter L. Voorhees. He was admitted to the New Jersey bar as attorney at

the November term, 1866, and as counselor three years later, and since his admission has practiced at Camden.

JOHN CASE BESSON, Hoboken, born in Alexandria township, Hunterdon county, N. J., April 30, 1838, was a descendant of Francois Besson, a French Huguenot who settled at an early date in Hunterdon county, and was the owner of a large tract of land in what is now Amwell township. His son, John Besson, was an ensign in the New Jersey State troops and served under Washington during the war for independence. At the close of the war he was honorably discharged, retired to the ancestral homestead, and died there at the advanced age of more than ninety years, while living with his daughter, Mrs. Polly Bearder, wife of Andrew Bearder, near Flemington, N. J. His son John married Rachel Traut, of Amwell township, and settled on a farm in Alexandria township, where they reared seven sons and five daughters. Four of the sons, John, Jacob, Jeremiah and Theodore, left home at an early age, and making the city of New York their residence, engaged in mercantile pursuits. The remaining three, Samuel, George and William, were farmers and remained in their native town. William, in 1835, married Margaret A., daughter of Godfrey and Elizabeth (Welch) Case, and had nine children, four of whom died in infancy. The death of a daughter, Hannah, occurred after a short illness in September, 1868. The mother, Margaret A., died at nearly the same time; both were buried on the same day in the churchyard at Mount Pleasant, N. J. William Besson died at the advanced aged of eighty-seven while still residing on his farm at Everittstown, Hunterdon county, which he purchased in 1851. He had two sons: John Case Besson, and Samuel Austin Besson, both lawyers, and two daughters, Mary Elizabeth and Catharine Frances.

John Case Besson in early youth attended the common schools and later enjoyed the advantages of an excellent private school, taught by Rev. C. S. Conkling, pastor of the Presbyterian church at Mount Pleasant, Hunterdon county. On leaving this school he spent a short time at Cooperstown, N. Y., and later one term at Pennington Seminary in New Jersey. He commenced teaching at the age of seventeen and continued in that employment for about two years, giving general satisfaction to his patrons. He was exceedingly fond of his young brother and when the latter was four years of age, John had taught him to read the English language. The affection of the brothers for each other continued until the death of John C.

In 1859 he began the study of law under E. R. Bullock, at Frenchtown, N. J., and the following year entered the Poughkeepsie Law School, of which John W. Fouler was then president. He had always been a fine mathematician, and his mathematical reasoning was rapid and thorough, and at the end of the school year 1860 he received the degree of LL.B. During the succeeding two years he continued his legal studies under the direction of Abraham V. Van Fleet, of Flemington, then one of the leading lawyers of Hunterdon county, afterwards one of the most distinguished vice-chancellors of New Jersey. Both preceptors (Mr. Bullock and Mr. Van Fleet) were men of strong character and of deservedly high reputation for learning and integrity. Mr. Besson remembered all his life with gratitude their kindness to him, and loved to speak of them in terms of highest praise. He was admitted to the bar of New Jersey as an attorney at the February term, 1863, and three years later as a counselor at law.

Immediately after receiving his attorney's license he began the practice of law at Millville, Cumberland county, N. J. Charles J. Landis, the founder of Vineland, was his first client, by whom he was entrusted with important business as long as he remained in that county. Not satisfied with the business prospects of Cumberland county, in less than a year he returned to his native Hunterdon, and continued the practice of his profession at Clinton and Flemington until April, 1867, at which time he removed to the city of Hoboken, Hudson county.

In this new field, though having but few acquaintances, he soon secured a considerable clientage. In May, 1868, he was appointed corporation attorney of the city, and continued to hold the office for six consecutive years, during which time the city was a party in many important suits. In 1875 he edited and published a collection of law precedents in one volume adapted to the practice in New Jersey.

From the date of his settlement in Hudson county to the end of his life his civil practice constantly increased In 1883 he formed a partnership with his brother, Samuel A. Besson, for the practice of law, and from this time until his death the firm of J. C. & S. A. Besson were the counsel and attorneys of the Hoboken Ferry Company, the North Hudson County Railroad Company, the First National Bank of Hoboken, the Hudson Trust and Savings Institution, the Hoboken Bank for Savings, and many other influential clients, and were looked upon as the leading lawyers north of the D., L. & W. R. R. in Hudson county. He was one of the counsel engaged in the celebrated Lewis will case

and was in nearly all the important cases in the northern part of the county of Hudson.

On June 22, 1868, he married Hasseltine J., daughter of Rev. George P. and Sarah K. Nice, of Baltimore, Md. During his life he was a hard worker, reading and writing generally until midnight. He was also fond of field sports, and was never happier than when hunting partridges with dog and gun and congenial companions. His physical system, never very strong, gave way in the winter of 1893 under the strain of continued application, and after a lingering illness, which he bore with manly fortitude and Christian resignation, he died on the 15th day of December, 1894, in his residence at Hoboken, his loss being lamented by all who knew him.

He left two sons—Lonidas H., a lawyer now practicing in New York city, and John William Rufus Besson, also a lawyer, now with the firm of Besson, Stevens & Lewis, of Hoboken, N. J. He was a member of Trinity church, of which he was vestryman, a member of Orion Lodge, F. & A. M., of the New Jersey Legislature in 1885–86, and a member of the Sons of the American Revolution.

Samuel Austin Besson was born in the village of Everittstown, Alexandria township, Hunterdon county, N. J., April 6, 1853, was the youngest of nine children of William and Margaret Besson. A sufficient account of his ancestry is set out in the sketch of his brother, John C. Besson. When but four years old he had learned to read English by the friendly aid and tuition of his brother, John C., and ever after was an incessant reader. By the time he was twelve he had read not only all the books in his father's house, but all those of the neighbors who lived within a radius of three miles of his home, and had acquired a widely varied and extensive information. In 1869 he became a pupil of the Caversville Normal School at Caversville, Bucks county, Pa., then under the management of Rev. F. R. S. Hunsicker, A. M., whose kindness and good influence he remembers with kindness and grateful affection. Mr. Besson had previously mastered all that could be taught him in the common schools of his native village.

In 1872 he entered Lafayette College at Easton, Pa., as a Freshman, and was graduated in the class of 1876, taking his degree of A. B.; in the junior and senior years he took a prize of fifty dollars offered each year for proficiency in the study of Latin and Greek writings of the fathers of the early Christian church. In the fall of 1876 he was appointed principal of the Phillipsburgh High School at Phillipsburgh, N. J., filling the position with satisfaction to all.

In the summer of 1877 he went to Hoboken, N. J., and began the study of law with his brother, John C. Besson. At this time some of his classmates were at Columbia College Law School in New York city under the late Prof. Dwight. They kindly loaned him their note books and kept him informed of the course of study which he went over with them with the closest attention.

In the summer of 1879 he was admitted to examination as an attorney at the June term of the Supreme Court and was duly admitted and sworn in and began to practice. In the spring of 1882 he was appointed corporation attorney of Hoboken by the council of the city, which at that time had a Republican majority. This office he filled successfully and conducted many important suits for the city for a year, when, at the spring election, the council became Democratic and he was retired to make room for a Democratic successor.

In 1883 he formed a partnership with his brother, John C. Besson, which continued until the death of the latter in 1894, the two brothers working with untiring zeal side by side with the greatest confidence in, and affection for each other. Upon the decease of his brother Samuel A. Besson formed a new partnership by taking with him Richard A. Stevens, the youngest brother of Col. E. A. Stevens, of Castle Point, Hoboken, and Edwin A. S. Lewis, the only son of the late Col. E. P. C. Lewis, deceased, ambassador to Portugal. Mr. Stevens is a graduate of Columbia College Law School and Mr. Lewis of the New York City Law School. The firm name is Besson, Stevens & Lewis. Mr. Samuel A. Besson was admitted as a counselor at law at the June term, 1882, of the Supreme Court of New Jersey, and has been a successful practitioner ever since, being at the present time counsel of the Hoboken Land and Improvement Company, the Hoboken Ferry Company, the Hudson Trust and Savings Institution, the First National Bank of Hoboken, and many other wealthy and influential clients. During the year 1889 he was president of the Hudson County Bar Association. He has contributed many articles to the press and has considerable taste and ability. His favorite studies are law and political economy. He is a ruling elder in the First Presbyterian church of Hoboken, and is highly respected for his honesty, learning and sterling character. He was one of the original founders and first trustees of the Columbia Club, the foremost social organization of Hoboken, of which he is still an active member. He is also a trustee of the Castle Point Cyclers who have a large club building of their own devoted to the support of cy-

cling, of which Mr. Besson is an ardent devotee. He is a member of the Hudson County General Republican Committee. He married Arabella Roseberry, daughter of Joseph M. Roseberry (deceased), of Belvidere, N. J. They have two children: Henrietta and Harlan.

Samuel Fowler Bigelow, Newark, born in Newark, N. J., March 29, 1837, is a son of Moses and a grandson of Timothy Bigelow, and the seventh in line of descent from John Bigelow (who married Mary Warren in Watertown, Mass., August 30, 1642), and the fifth in lineal descent from John Bigelow, who settled in Newark in 1716. The grandsons of the last named John were very active participants in the Revolutionary war in New Jersey, four being captains and two privates. Mr. Bigelow's mother was Julia Ann Breckenridge, daughter of Dr. Samuel Fowler. Mr. Bigelow was graduated from Princeton College in 1857, read law with Vice-Chancellor Amzi Dodd, and was admitted as an attorney in 1860 and as a counselor in 1864. He has served as city attorney of Newark, judge of the city court, and United States district attorney for New Jersey, and he declined a position on Governor Bedle's staff with the rank of colonel; he also declined the office of judge of the Newark District Court, tendered him by Governor Robert S. Green, and was largely instrumental in creating this court. While United States attorney he vigorously prosecuted the European steamship owners for violation of the United States statutes in overloading with passengers their vessels to this country, more such actions being brought during his incumbency than during all the terms of his predecessors. Mr. Bigelow wrote a biographical sketch of his father, Mayor Moses Bigelow, for the Newark city collection, has contributed a series of "California Stories" to the Sunday Call and numerous editorial and other articles on political and local affairs to the Newark Journal, and during a brief residence in California was a contributor to the San Francisco Chronicle.

Theodore B. Booraem, New Brunswick, born in New Brunswick, N. J., on the 30th of April, 1861, is a son of Theodore B. and Annie Hart (Foster) Booraem, and a member of the Holland Society. His ancestors came from Holland in 1636 and settled on Long Island, whence they moved in 1710 to Middlesex county, N. J. His grandfather, Nicholas Booraem, was for twenty-seven years clerk and forty-two years treasurer of the county of Middlesex, ten years associate judge of the Middlesex Common Pleas, and several times a member of



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the New Jersey Legislature. Mr. Booraem was graduated from Rutgers College in 1881, read law in his native city with Hon. A. V. Schenck, and was admited to the bar of this State at Trenton as attoruey in June, 1884, and as counselor in February, 1888. He is treasurer of the Alumni Association of Rutgers College, a deacon in the Second Reformed church, a director in the Y. M. C. A , treasurer of the New Brunswick Electric Light Company, and a director in the Edison Illuminating Company. In 1892 he became associated in business with John S. Voorhees in the practice of law, under the firm name of Voorhees & Booraem.

April 16, 1895, Mr. Booraem was married to Miss Helen Constance, daughter of Darley and Caroline S. (Suydam) Randall, of New Brunswick.

Joshua E. Borton, Camden, born in Mount Laurel, Burlington county, N. J., November 1, 1863, is a son of William T. and Martha L. Borton, and was educated in the public schools of his native town, in the High School at Moorestown, N. J., and at the State Normal School in West Chester, Pa. He read law in Camden with Jenkins & Jenkins and later with Thomas B. Harned, and was admitted to the bar at Trenton as attorney in November, 1884, and as counselor in June, 1888. He is supreme court commissioner for New Jersey, special master in chancery, and attorney for Chester township, Burlington county. In November, 1895, he was elected to the Assembly from his district by about 2,200 majority. He resides in Moorestown.

George A. Bourgeois, Jr., Atlantic City, born in Mauricetown, Cumberland county, N. J., May 15, 1864, is a son of George A. and Mary J. Bourgeois, and was educated in Mauricetown public schools and at Woodstown Academy. He studied law in the office of E. B. Leaming, of Camden, and at the law department of the University of Pennsylvania, and was admitted in Philadelphia in June, 1888. He was admitted to the bar of New Jersey at Trenton as attorney in November term, 1889, and as counselor at the same term in 1892. Prior to admission he taught school for four years in New Jersey and was professor of mathematics for three years in Pierce College of Business, Philadelphia.

Charles Hamill Butcher, Freehold, is a son of William H. and Anna (Boyd) Butcher, was born in Freehold, N. J., September 6, 1856. He was educated at the Freehold Institute, read law in the office of W.

H. Vredenburgh, and was admitted to the bar of this State as attorney in June, 1879, and as counselor in June, 1882. He has served as city clerk since 1888. Mr. Butcher married Miss Josephine D., daughter of Elihu B. and Kate (Craig) Bedle. On May 4, 1896, he was elected director and secretary and treasurer of the Freehold Gas and Electric Light Companies.

Gardner H. Cain, Trenton, is a son of Nathaniel and Eure Ann Cain, and was born in Harlingen, Somerset county, N. J., November 27, 1858. His great-grandfather emigrated to this country from Ireland about 1765; his mother's family, of English descent, have lived in America for several generations. Mr. Cain was graduated from Rutgers College in 1881 and studied law with Fergus A. Dennis, of Princeton, and R. S. Woodruff, of Trenton. He was admitted to practice as attorney at the November term in 1885 and since then has been associated with Charles B. Case, as Case & Cain, in the real estate business and in the practice of law. Mr. Cain was president of the Trenton Common Council from May 1, 1892, to May 1, 1894.

Charles Kinsey Cannon, Hoboken, born in Bordentown, N. J., November 12, 1846, is a son of Garrit S. (which see) and Hannah (Kinsey) Cannon; he received his preliminary education in Burlington, and was graduated from Yale College in 1867. He read law with his father at Bordentown, and was graduated and admitted to the New York bar from Columbia Law School in June, 1870 His admission to the bar of this State occurred in November, 1870, as attorney, and in the same month in 1875, as counselor. He served as corporation counsel for the city of Hoboken in 1877 and 1878.

Garrit Schenck Cannon, Bordentown, born in Somerset county, N. J., May 28, 1815, died in Bordentown on April 21, 1886. He was a son of Rev. James Spencer and Catherine (Brevoort) Cannon, was graduated from Rutgers College in 1833, and was admitted to the New Jersey bar as attorney in 1836 and as counselor in 1839. He served as prosecuting attorney of Burlington county from 1850 to 1860 and 1865 to 1870, and was United States district attorney for New Jersey from 1853 to 1861.

Mr. Cannon held a foremost position among the leading members of the bar. As an advocate he exhibited rare good judgment, and won universal respect for his great ability and thorough knowledge of the law.

James Hopkins Carpenter, Camden, born in Woodbury, Gloucester county, N. J., November 18, 1849, is the son of Thomas Preston (which see) and Rebecca (Hopkins) Carpenter, and was graduated from the University of Pennsylvania, receiving the degree of B. A. in 1869 and that of M. A. in 1872. He read law with his father in Camden, and was admitted to the bar of New Jersey at Trenton as attorney at the November term, 1872, as counselor at the same term in 1875, and to the United States courts in Trenton on March 20, 1883. November 3, 1875, he was appointed master in chancery; March 28, 1888, he received the appointment of examiner; March 29, 1880, he was elected vestryman of St. Paul's church, Camden, and since April 7, 1882, he has served as secretary of that parish.

Thomas Preston Carpenter, Camden, a lineal descendant of Samuel Carpenter, prominent in the early history of Pennsylvania, was born April 10, 1804, in Glassboro, Gloucester county, N. J. His father, Edward Carpenter, was the owner of the glass works at that place for many years, which he and Colonel Heston, as the firm of Carpenter & Heston, established. His mother was the daughter of Dr. James Stratton, a leading physician of his day in Swedesboro. His father died when he was quite young and he grew to manhood in the family of his grandfather, at Carpenter's Landing (now Mantua). After obtaining a liberal education he studied law under the instruction of Judge White, of Woodbury, and was admitted as an attorney in September, 1830. On October 26, 1838, he was appointed prosecutor of the pleas of Gloucester county and took a prominent part in several important trials. He soon won prominence at bar, and on February 5, 1845, was appointed by Governor Stratton one of the associate justices of the Supreme Court of New Jersey, his circuit comprising Camden, Burlington, and Gloucester counties. On his retirement from the judgeship, after serving a term of seven years, he devoted himself to the practice of his profession, principally as a counselor, and was eminently successful.

At the breaking out of the Rebellion he joined the Union League of Philadelphia, and during the war was an ardent supporter of the Union cause. In 1865 he was active in promoting the success of the Sanitary Fair, occupying as he did the position of president of the New Jersey Department. Judge Carpenter married Rebecca, daughter of Dr. Samuel Hopkins, of Woodbury. He was an earnest Christian, and in the church always held an honored position, being for many years

vestryman, warden, and deputy to the Diocesan and General Conventions of the Protestant Episcopal church.

Judge Carpenter was not only an able lawyer, but was well versed in the classics and in general literature. He was greatly respected throughout the State of New Jersey, of which he was at the time of his death one of her best known citizens. As a judge of the Supreme Court he was held in high esteem by his associates and by the bar of the State for his ability, learning, and the uniform good judgment which he brought to the consideration of cases. In the counties where he presided at circuits, and which he visited during his term of office at regular periods, his genial manners and kindly intercourse with the people made him very popular. He died at his home in Camden on March 20, 1876.

By his marriage with Rebecca Hopkins, who survives, Judge Carpenter, had four children, viz.: Susan M. Carpenter, Anna Stratton Carpenter (who died in December, 1869), Thomas Preston Carpenter (who died in infancy), and James H. Carpenter (now a member of the New Jersey bar, located at Camden).

William Henry Carson, Camden, son of James R. and Anna J. Carson, was born in Camden, N. J., February 14, 1867. He received the degree of A. B. from Johns Hopkins University in 1890 and that of A. M. from Harvard University in 1894; studied law in Seattle, Wash., with Judge Thomas Burke one year, and spent three years at the Harvard Law School, which conferred upon him the degree of LL. B. in 1894. He was admitted to the bar of New Jersey in November, 1894, and on March, 26, 1895, was appointed assistant prosecutor of the pleas of Camden county.

Frederic E. Chamberlin, Jersey City and Bayonne, was born in Detroit, Mich., March 9, 1869, and moved at an early age with his parents, Winfield Scott and Minerva (Perry) Chamberlin, to Boston, Mass., where he attended the public schools, graduating from the Winthrop High School in 1886 as valedictorian of his class. Soon afterwards he came with his father to Bayonne, N. J., where the latter was the Republican candidate for congressman for the Eighth New Jersey district composed of Union county with parts of Hudson and Essex in 1892. Mr. Chamberlin completed a course in mathematics at Stevens Institute of Technology in Hoboken, studied law in Jersey City with Babbitt & Lawrence, was graduated from the law school of the Univer-

sity of the City of New York in 1892, with the degree of LL.B., and during the following two years was instructor in that institution in common law pleading as affected by the New Jersey statutes. In November term, 1893, he was admitted to the bar of the State as attorney. In April, 1894, he was elected a member of the Bayonne Board of Education for a term of three years, and in 1895 was the Republican candidate for Assembly. He has taken an active interest in educational affairs, is a thirty-second degree Mason, and since his admission has practiced his profession in Jersey City and Bayonne.

HARLEM G. CHAMBERLIN was born in Hunterdon county, N. J., November 30, 1850, son of Amplius B. and Elizabeth (Myers) Chamberlin. Receiving a public school education, he entered the office of O. P. Chamberlin for the study of law, and was admitted to the bar of New Jersey as attorney at the November term, 1876, and as counselor at the same term in 1879. In 1891 he was appointed prosecutor of the pleas of Hunterdon county. Mr. Chamberlin's wife, Lillian L., was a daughter of George and Nancy Aonwine.

CHARLES KEMBLE CHAMBERS, Mount Holly, son of Samuel H. and Frances E. B. (Woodward) Chambers, was born in Springfield township Burlington county, N. J., October 18, 1866, and was graduated from South Jersey Institute in 1884, and from Brown University of Providence, R. I., in 1888. He studied law in the office of Mark R. Sooy, of Mount Holly, and was admitted to the bar of New Jersey at the June term, 1891, and as counselor at the same term in 1894.

CORNELIUS CHRISTIE, Jersey City, born in Bergen county, N. J., December 6, 1835, is a son of David and Anna (Brinkerhoff) Christie, and was graduated from Yale College in 1855. He read law with Mercer Beasly and A. O. Zabriskie, and was admitted to the New Jersey bar as attorney at the February term, 1860, and as counselor at the same term in 1863. He has served as member of assembly, and for many years has enjoyed an extensive law practice.

ALVAH A. CLARK, Somerville, N. J., was admitted to the bar as an attorney in 1863, and counselor in 1866; was elected to Congress from the Fourth Congressional district, comprised of the counties of Somerset, Hunterdon, Warren and Sussex, in 1876, and re-elected in 1878. Mr. Clark has been connected with many important cases, and for years has been employed as counsel for corporations, having had large interests intrusted to his charge.

William M. Clevenger, Atlantic City, born in Chester township, near Moorestown, Burlington county, N. J., May 4, 1872, is a son of William and Eleanor G. (Westcott) Clevenger, and was graduated from the Atlantic City High School in 1890. He read law in the office of Judge Joseph Thompson, of Atlantic City, was admitted to the New Jersey bar as attorney at the June term, 1894, and is master in chancery.

William A. Coddington, Plainfield, born on the 14th of May, 1864, in Bound Brook, N. J., is a son of Israel A. and Savilla M. Coddington, and was educated in the public schools of his native town, at Hasbrouck Collegiate Institute, and at the State Normal and Model Schools in Trenton. He read law in the offices of Suydam & Stillman and was admitted to the bar of this State in June, 1891. He has served as city judge of Plainfield, and among the many important cases with which he has been connected as counsel were those of State vs. Walch and Cain and Brock et al. vs. Borough of North Plainfield.

Edward Martin Colie, Newark, born in Milburn, N. J., is a son of Daniel G. and Elizabeth S. (Dayton) Colie, and was graduated from the College of the City New York in 1873. He read law in the office of Stone & Jackson, and was admitted to the bar of this State as attorney in 1876, and as counselor in 1879.

Mr. Colie has argued many leading cases, notably Chism vs. Schipper, 22 Vroom, 1; Merchants' Insurance Company vs. City of Newark, tax case, 25 Vroom, 138, and 26 do, 145; City of Orange vs. Orange National Bank, tax case, September 3, 1895; Donnell vs. Wyckoff, 20 Vroom, 48; State vs. Van Houter, 17 Vroom, 16; and others almost equally important. He makes a specialty of insurance law, and is counsel for the Merchants' Insurance Company of Newark, general counsel in New Jersey for the Fidelity and Casualty Company of New York, and counsel in special cases for many other insurance companies. He has frequently contributed to Appleton's Journal, Christian Union, and Evening Post, and is the author of a paper entitled "John Ruskin as an Ethical Teacher," which was read before the Phi Beta Kappa Society of New York, was published by that society, and has had a wide circulation.

In 1890 the law firm of Colie & Titsworth was formed, and in 1892 this was followed by the present firm of Colie & Swayze.

John L. Connet, Flemington, is a son of Samuel and Hannah



R. O. Babbitt

(Thompson) Connet, and was born in Bedminster township, Somerset county, New Jersey, October 10, 1848. Prepared for college with Rev. H. P. Thompson at Peapack, N. J., and entered Rutgers College in 1867 in the class of '71. In the spring of 1869 he left college for the purpose of teaching, and received his degree of A.B. from Rutgers in 1880. In 1888 that institution conferred upon him the degree of A.M. His legal studies were pursued in the office of Hon. R. S. Kuhl at Flemington. He was admitted to the New Jersey bar as attorney in November, 1873, and as counselor in the same month in 1876. In October, 1879, he married Rosalie, daughter of H. C. Finch.

James C. Connolly, Elizabeth, born in Belleville, Essex county, N. J., but has resided in Elizabeth since he was about four years of age. He is a son of Michael and Bridget (Cavanagh) Connolly, and received his education in the public and private schools of Elizabeth, N. J. He spent some time as a newspaper reporter, and finally commenced to read law with Hon. John T. Dunn in 1883. He was admitted to the bar of New Jersey as attorney at the February term, 1887, and as counselor at the same term in 1891. He served as member of the Common Council from the Second ward of Elizabeth from 1887 to 1891, and as city attorney from 1891 to 1895 inclusive. Among the important cases with which he has been connected was that of De Witt vs. City of Elizabeth, 27 Vroom, 119, settling the question of prospective benefits in sewer litigation and enabling the corporation authorities to collect about $120,000; and also Lawrence et al. vs. Elizabeth, 16 N. J. L. J., 313; Lambert vs. City of Rahway, 34 Atlantic Rep., 5; and Consolidated Traction Company vs. City of Elizabeth, 34 Atlantic Rep., 146.

James Clarence Conover, Freehold, was born in Marlboro, Monmouth county, N. J., August 12, 1850, and is a son of Hon. William H. Conover, whose wife was Mary, daughter of Rev. James Otterson. The original American ancestor of the family was Woolfert Garretson Covenhoven, who came to this country from Holland in 1630, and whose son Peter settled in Monmouth county before 1700. Col. John Conover, great-great-grandfather of James C., was a colonel in the Continental army during the Revolution.

James Clarence Conover was graduated from the Freehold Institute in June, 1870, and from Princeton College in June, 1873; read law one year with Hon. Charles Haight and two years with Hon. Chillion Robbins, ex-presiding judge of the Monmouth Pleas; and was admitted to

the New Jersey bar in June, 1873, and as counselor in November, 1881. He was counsel of the Board of Chosen Freeholders of Monmouth county for eight years prior to April, 1890, when he was appointed law judge of that county by Governor Abbett, a position he held for a full term of five years. In March, 1895, he was reappointed for a second term of five years to the latter office by Governor Werts. He is a member of the Holland Society of New York, the Sons of the American Revolution of New Jersey, the New Jersey State Rifle Association, Olive Branch Lodge No. 16 of Free and Accepted Masons of Freehold, N. J. and Keith Council Royal Arcanum also of Freehold, N. J.

On February 7, 1877, Judge Conover was married to Miss Josephine, daughter of Hon. William and Rosalie (Lattan) Bleakley, of Verplanck-on-the-Hudson, N. Y. They have only one child, a daughter—Rosalie Bleakley Conover.

Eugene J. Cooper, of Dover, was born in Dover, N. J., May 7, 1861, is a son of James and Phoebe (Davenport) Cooper, and traces his descent from Holland Dutch and English immigrants, paternal and maternal ancestors, two generations before the Revolutionary war, and who participated in the war of the Revolution. He was educated in his native city, read law with J. H. Neighbour and A. C. Smith; late partners known as Neighbour & Smith, and Ford D. Smith, and was admitted to the bar of this State in November, 1888, and at once began the practice of law at Dover, N. J., which he has continued since, and has attained an active practice of law. Mr. Cooper married Miss Martha B., daughter of Charles O. and Anna Parsons.

Howard M. Cooper, Camden, son of John and Mary M. Cooper, was born in Camden, N. J., June 24, 1844. He was educated at Haverford College in Pennsylvania, read law in the office of Peter L. Voorhees, and was admitted to the New Jersey bar as attorney at the November term, 1867, and as counselor at the same term in 1870. He is president of the Security Trust and Safe Deposit Company, the Harleigh Cemetery Association, and the West Jersey Orphanage for Destitute Colored Children, and is a director of and solicitor for the Camden National Bank.

Charles Lyon Corbin, Jersey City, born in McDonough, Chenango county, N. Y., January 22, 1846, is the son of Eli C. and Abigail B. (Taintor) Corbin, and was graduated from Hamilton College in 1866. He completed his legal studies at the Columbia Law School and was

admitted to the New Jersey bar. He was counsel for the legislative committee framing the railroad tax law of 1884, and has been prominently connected with the National Docks litigation with the Pennsylvania Railroad Company, in which more than a dozen decisions were rendered. He is the author of Corbin's Rules, American Notes to Benjamin on Sales, and many pamphlets, papers and articles on railroad and tax legislation.

Joseph B. Coward, Plainfield, born in Plainfield, N. J., September 8, 1836, is a son of John H. and Phoebe E. Coward, and was educated in the public and high schools of his native city. He read law with Cornelius Boice and was admitted to the bar of this State in February, 1858. Mr. Coward has made a specialty of real estate law, and among his many important cases are those of Hyde vs. Johnson (on points of water rights) and Hyde vs. Green et al.

Samuel Craig Cowart, was born in Freehold, N. J., December 16, 1854. He is a son of Enoch L. and Anna M. (Bowne) Cowart, and a descendant of Rev. John Cowart, who came from England to this country in the eighteenth century and settled in Upper Freehold, Monmouth county, N. J., where he acquired a large landed estate, and with his own private funds, built the old "Baptist Yellow Meeting House." On his mother's side Mr. Cowart is of Scotch descent. His maternal great-great-grandfather, Archibald Craig, was obliged to leave Scotland during the religious persecution, about 1685, and settled in Monmouth county. He was one of the founders of the old Scotch church near Marlboro, N. J.

Mr. Cowart is a member of the New Jersey Society of Sons of the American Revolution, having had three great-grandfathers who participated in the war for Independence. His grandfather, Enoch Cowart, sr., was a veteran of the war of 1812, and his father, Major Enoch L. Cowart, was a veteran of the war, serving as quartermaster of the Fourteenth Regiment, N. J. Volunteers, and for a time as quartermaster of brigade, under Major-General Wright.

Mr. Cowart graduated from Princeton College, on the honor roll of his class, in 1876. He was a member of the famous foot ball team which beat Yale 3 to 0 and never lost a college game. While at Princeton he was one of the editors of the Nassau Literary Magazine and for several years after graduation was on the editorial staff of the Monmouth Democrat. He studied law in the office of W. H. Vredenburgh,

esq., and was admitted to the New Jersey bar as an attorney at the June term, 1879, and as a counselor in February, 1886. He settled in Freehold, where he has been very successful in the practice of his profession. Among the interesting law cases which he has argued, it is proper to mention here Parker vs. Parker, Smith vs. Combs, Bennett vs. Bennett, Wells vs. Wells. Mr. Cowart is a deacon in the First Presbyterian church of Freehold, and has taken an active interest in the welfare of that church.

April 30, 1891, he was married to Miss Florence S. Shepherd, daughter of Cornelius and Jennie (Long) Shepherd, of Trenton, N. J. In politics a staunch Republican, Mr. Cowart has taken the stump in several campaigns and warmly advocated his party's principles.

Otto Crouse, Jersey City, was born in Ulster county, N. Y., April 24, 1861, is the son of Frederick and Doretta Crouse. He attended Freehold (N. J.) Institute, and was graduated from Princeton College in 1883. He read law in Jersey City with Bedle, Muirheid & McGee, and was admitted to the New Jersey bar as attorney in June, 1886, and as counselor in June, 1889.

Peter Francis Daly, New Brunswick, born in New York city on the 19th of May, 1867, is the son of Timothy and Catherine (O'Grady) Daly, natives and descendants of the Daly and O'Grady families of Galway, Ireland, who came to America when young and have resided in New Brunswick, N. J., since the subject of this sketch was a boy. He was educated in St. Peter's and in the Livingston Avenue High School in New Brunswick, read law in that city with Hon. James Van Cleef, was admitted to the New Jersey bar in November, 1888, was a member of the law firm of Van Cleef, Daly & Woodbridge from January, 1873, to January, 1896, and now has alone an extensive and general practice. He has served as deputy and counsel to the surrogate of Middlesex county since November, 1892, is attorney for the Second Workingman's Building Loan Association and counsel for Sayreville, Piscataway and East Brunswick townships. While Mr. Daly's practice is general he has made a special study of probate law and practice.

He was married in September, 1893, in New Brunswick, to Miss Mary Rose, daughter of William and Margaret (Fitzgerald) Mansfield.

Dr. Charles Davis, Elizabeth and Phillipsburg, born in Bloomfield, N. J., in February, 1797, was appointed judge of the Common Pleas of Essex county by Governor Haines, on April 1, 1849, and by virtue

thereby was president judge of the Borough Court at Elizabethtown. He was a practicing physician in Elizabeth from 1820 to 1858, when he moved to Phillipsburg, where he died in 1865.

William M. Davis, Phillipsburg, born in Elizabeth, N. J., in 1840, is a son of Dr. Charles Davis, and was educated under Dr. David H. Pierson in his native city. He read law in Easton, Pa., with Hon. H. D. Maxwell, and subsequently in Belvidere, N. J., with the late Hon. J. G. Shipman, and was first admitted to the bar of New Jersey as attorney in November, 1894, and is supreme court commissioner and special master in chancery.

Abram De Baun was born in Monsey, N. J., April 2, 1856, son of Rev. John Y. and Margaret (Iserman) De Baun, and received his education at Hackensack Academy. He read law in Hackensack with Abraham D. Campbell and was admitted to the bar in Trenton as attorney at the June term of 1877, and as counselor at the same place and term of 1880. He is a staunch Democrat, and for seventeen years served as clerk of the Board of Chosen Freeholders.

Elmer Wilson Demarest, Bayonne, born in Eastwood, Bergen county, N. J., May 15, 1870, is the son of Abram J. and Eliza W. Demarest, and a lineal descendant of Peter Wilson, LL.D., professor of Latin, Greek, and literature in Columbia College. Dr. Wilson was a prominent figure in Revolutionary times and medieval New Jersey history, and founded the Flatbush and Hackensack academies.

Mr. Demarest attended the public schools of Bergen county, and was graduated from Rutgers Preparatory School, New Brunswick, in 1887. Later Columbia College conferred upon him the degree of LL.B. Between January and September 1, 1889, he read law with De Witt Van Buskirk, in Bayonne, and from then until February, 1892, with Horace Roberson, of the same place. In September, 1889, he entered Columbia Law School and was graduated therefrom in June, 1892. He was admitted to the bar of New Jersey as attorney in February, 1892, and as counselor in June, 1895.

Mr. Demarest was a member of the Bergen County Republican Executive Committee in 1892 and 1893, and has been a member and vice-president of the Hudson County Republican Committe since 1895. He is preparing a text book, treating on administrative law and practice and the history of the writs of mandamus, certiorari, quo warranto and injunction, especially adapted to practice in this State.

MILTON DEMAREST was born in Rockland county, N.Y., June 8, 1855, son of John C. and Isabella (Tallman) Demarest. He was educated in Hackensack, N. J., where he read law in the office of M C. Gillham. He was admitted to the bar of this State at Trenton in June, 1877, and as counselor at the same place in June, 1880.

SAMUEL R. DEMAREST, JR., Hackensack, born in Demarest, N. J., is a son of Ralph S. and Jane (Haring) Demarest, and was graduated from Rutgers College in 1867. He read law in Jersey City with Jacob R. Wortendyke and after the latter's death with William Brinkerhoff, and was admitted to the bar of New Jersey at Trenton as attorney in November, 1870, and counselor in June, 1880. He has since practiced his profession in Hackensack.

SHERRERD DEPUE, Newark, born at Belvidere, Warren county, N. J., August 1, 1864, is a son of David Ayres and Delia Ann (Slocum) Depue, and was graduated from Newark Academy in June, 1881, and from Princeton Collnge in June, 1885. He read law with Hon. F. W. Stevens, of Newark, N. J., was graduated from Columbia Law School (*cum laude*) in May, 1887, and was admitted to the bar of this State at Trenton as attorney at the June term, 1888, and as counselor at the same term in 1891. He served as assistant U. S. district attorney of New Jersey from October, 1890, to December, 1892, and as city attorney of Newark from November 12, 1894, to May, 1896. October 10, 1892, he married Miss Mabel T., daughter of Thomas B. and Mary L. (Ruxton) Norris, of Newark.

Mr. Depue was identified with the case involving the constitutionality of the county court act, and has been prominently connected with several city cases of importance. He has contributed various law articles to magazines and was editor of the Nassau Literary Magazine during his last year in college.

MOSES J. DE WITT, Newark, born in Wantage township, Sussex county, N. J., April 30, 1849, is a son of the late Jacob W. and Phebe De Witt, and was graduated from Princeton College in 1870. He read law with Hon. Charles H. Winfield and E. S. Cowles, esq.. both of Jersey City, and was admitted to the bar as attorney in June, 1874, and as counselor in 1886. He was school commissioner of the city of Newark from May, 1893, to May, 1895, has been counsel of the North Ward National Bank of Newark since 1878 and of the Eighth Ward Building and Loan Association since its organization in January, 1886,



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and is now president of the Mt. Retirement Seminary Alumni Association, being elected in August, 1895, as the successor of Hon. Moses Stivers, late of Goshen, N. Y., deceased. He is past master of Northern Lodge No. 25, F. & A. M., past high priest of Harmony Chapter No. 9, R. A. M., and past prelate of Damascus Commandery No. 5, K. T., all of Newark; and a member of the Kane Council No. 2, Newark, Mecca Temple, New York, and the Holland Society of New York. He is master and examiner in chancery, and was a law partner of the late Elias M. Pennington, under the firm name of Pennington & De Witt, from 1874 to June, 1878. Since 1885 he has practiced in partnership with Thomas C. Provost, as De Witt & Provost.

Asa Williams Dickinson, Jersey City, born in Amherst, Mass., is a son of Capt. M. F. and Hannah (Williams) Dickinson, and was educated at Williston Seminary at East Hampton and the Massachusetts Agricultural College at Amherst. He read law with Charles Scofield, and John W. Herbert, jr., of Jersey City, N. J., and was admitted to the bar of this State in June, 1880. He was assistant clerk of the Assembly in 1878–79 and 1879–80 and assistant collector of customs at Jersey City for the District of New York from 1882 to 1887. As attorney he was connected with the seven years' litigation between the National Docks and New Jersey Junction Connecting Railway Company vs. the Pennsylvania Railroad Company and the United Railroad and Canal Company. He was colonel on the personal staff of Gov. George T. Werts from 1893 to 1895 inclusive, and is the senior member of the firm of Dickinson, Thompson & McMaster, of Jersey City.

Samuel Meredith Dickinson, Trenton, was born in that city, June 25, 1839, and his parents were Philemon Dickinson and Margaret C. Gobert Dickinson. He was educated at the Trenton Academy, and obtained his legal instruction in the office of Chief Justice Mercer Beasley in Trenton. He was admitted as a member of the bar at Trenton, at the June term of 1863, and as a counselor at the same term of 1866. For more than five years he has been chancery reporter, and has published "Chancery Precedents," and "Orphan's Court Practice."

He married Garetta Moore, daughter of John J. Moore and Catherine V. M. Johnson, of Newtown, Long Island.

Walter E. Dobbins was born near Mount Holly, N. J., December 14, 1867, son of Samuel A. and Phebe A. (Hodson) Dobbins. He was graduated from the Mount Holly High School in 1885. Mr. Dobbins

read law with Hon. J. H. Gaskill at Mount Holly, and was admitted to the bar of New Jersey at the November term, 1892. He is engaged in the practice of his profession at Burlington, where he is also a member of the Common Council of the city.

Richard Grant Augustus Donnelly, Trenton, was born in Richmond, Staten Island, N. Y., in 1841. He was educated at the district school and later at a select boarding school near Belleville, N. J.. In 1854 he went to Hoboken, and entered the office of Hon. J. Dunn Lit tell, with whom he studied law until the death of his preceptor in 1857. He then entered mercantile pursuits as a clerk in New York city. When the war broke out he enlisted as a private in Co. I, 1st N. J. Vols., attached to Kearney's Brigade, Army of the Potomac. During the course of his service he was advanced to the positions of corporal and sergeant. Being left wounded on the field of Gaines Mills he was taken to Libby Prison, where he remained until exchanged. On acconnt of physical disabillty he was honorably discharged from the United States service at McKim's Mansion Hospital, Baltimore, Md. After four months he was able to resume his duties as clerk in New York city.

In 1867 General Donnelly moved to Trenton and embarked in the hosiery and furnishing goods trade for himself. Making a success of this branch of business he later added ready-made clothing and has conducted the two together for many years. He occupies the Taylor Opera House store and the store adjoining and does perhaps the largest business in his line in Trenton.

General Donnelly is very well known throughout the State on account of the different public positions which he has held and is still holding. March 18, 1879, he was made paymaster of the 7th Regiment of National Guards; January 20, 1881, he was advanced to the rank of major; May 31, 1882, to the rank of lieutenant-colonel; and September 7, 1882, he was made colonel. January 13, 1890, he was appointed quartermaster-general to succeed General Perrine, deceased. This position includes commissary-general, paymaster-general and chief of ordnance, and is held during good behavior. General Donnelly was chairman of the Board of Commissioners to select grounds and erect the buildings for the Soldiers' Home at Kearney, N. J.; served seven years as a trustee of the New Jersey State Reform School; and is one of the managers of the home for disabled soldiers. Twice he has been a

member of the New Jersey State Legislature and for two terms he was mayor of the city of Trenton. He is past commander of Aaron Wilkes Post No. 23, G. A. R., and in 1892 was department commander of the G. A. R., Department of New Jersey. He has long been a member of the Trenton Board of Trade, a director of the First National Bank, New Jersey Building Loan and Investment Co., Mercer Hospital and the Inter-State Fair. At one time he was chairman of the County Democratic Executive Committee and is a member of the Democratic League and treasurer and member at large of the Democratic State Committee. He belongs to several of the prominent social and secret orders of the city. He is a member and junior warden of Trinity Episcopal church, and was one of the originators of the People's Electric Light Company and was its first president.

General Donnelly has been twice married, first to Miss Susie A., daughter of Jesse Davison, of Trenton, who died leaving three children: Harry A., a journalist in New York city; Fred W., associated with his father in business; and Anna E. The second time he was married to Miss Susie I., daughter of Stephen Gould of Luzerne county, Pa. They have three children: Susie C., Richard G. A., jr., and Arthur Grant.

William P. Douglass, Jersey City, born in Duanesburg, N. Y., is a son of Stephen and Jane A. Douglass, and was educated at Columbia College in New York. He read law with Nathaniel C. Slaight and William A. Lewis, and was admitted to the bar of this State at Trenton as attorney at the February term, 1867, and as counselor at the same term in 1870. He served as corporation attorney, district court judge, and police justice of Jersey City, and among the many interesting and important law cases with which he has been connected was that of Farrier vs. Schroeder, in which the court held the power of amendment to be practically unlimited.

John T. Dunn, Elizabeth, born in Ireland on the 4th of June, 1838, is a son of Thomas U. and Margaret (Whitehead) Dunn, and came to the United States on September 4, 1844. He read law with Gilhooly & Marsh and was admitted to the bar of New Jersey under the Dunn bill (of which he was the author) as attorney in February, 1882, and as counselor in 1886. He served four years as alderman, four years as member of the Legislature (being first elected in 1879), and was speaker of the Assembly in 1882. In 1887 he retired from politics to devote his

time to the practice of law, and also engaged in the foundry and machine business. He was elected to Congress in 1892.

Mr. Dunn was connected with the celebrated Teller vs. Doty case, in which the opposing counsel stated before the court that he had searched the records for 600 years back and found no precedent. It was considered untenable by the bar and involved all legislation of entail bearing on the statute of descent passed in 1820, which has never before been applied in a similar cause. He has frequently contributed to the press and is now engaged in preparing a history of the Irish people in America, which involves a vast amount of research and labor.

Michael Dunn, Paterson, born in Newton, N. J., August 27, 1858, is a son of James and Bridget Dunn, and was graduated from Princeton College in the class of 1880. He studied law in the office of Martin Rosekrans, and was admitted to the New Jersey bar as attorney in June, 1882, and as counselor in June, 1885. He was under sheriff of Sussex county from November, 1881, to November, 1884, and as counsel he has been connected with such cases as Quackenbush et al. vs. State of New Jersey, 28 Vroom, 18; Lane & Co. vs. Watson et al., 23 Vroom, 550; and Tynan vs. Warren, 34 Atlantic Reporter, 1065.

William D. Edwards, Jersey City, born in Brooklyn, N. Y., December 17, 1855, came to Jersey City with his parents in 1860, and was educated in the public schools and at Hasbrouck Institute. He was graduated from the University of the City of New York in 1875, read law with Hon William Brinkerhoff, and was graduated from Columbia Law School in 1878, and was admitted to the bar of New Jersey the same year. Since then he has practiced his profession in Jersey City, most of the time as a member of the firm of Wallis, Edwards & Bumsted. May 1, 1883, he was appointed corporation counsel of the city of Bayonne and, though not a resident there, held that office several years. He was secretary of the Democratic County Committee in 1879 and its president in 1880. In 1886 he was elected State senator from Hudson county to succeed his legal preceptor, Mr. Brinkerhoff, and served one term (1887–89). In 1889 he was appointed corporation counsel for Jersey City and served in that capacity for five years; he drafted and secured the passage of the new charter under which that city is now governed. He has recently carried to the United States Supreme Court and there won the suit brought by Jersey City against the Central Railroad of New Jersey for the recovery of the South Cove

Grant in New York Bay; this grant had been in litigation for many years and has been valued at over a million dollars.

He has also been engaged in many other famous municipal litigations throughout the State and is now considered one of the leading authorities on questions of municipal law and taxation.

Augustus T. Ege, Trenton, was born in Mercer county, N. J., April 4, 1838, son of Titus Ege. The family is descended from Adam Ege, who came from Germany and settled in Mercer county, where its various members have been residents for the past one hundred and fifty years. Augustus T. Ege was educated in the common schools. He has been captain of the Woodsville Rifles; has served in the Township Committee four years, has been director of the Board of Freeholders four years, and township collector five years. In 1893 he was elected sheriff of Mercer county, which office he is now administering to the satisfaction of the people.

John J. Ely is a native of Freehold, N. J., and was born October 17, 1839. He is a son of Horatio Ely, formerly sheriff of Monmouth county, N. J., and a grandson of John J. Ely, formerly sheriff of Monmouth county, N. J., and is in the direct line of descent from Joshua Ely who emigrated from England and settled in New Jersey in 1685, and who was a brother of Nathaniel Ely who settled at Springfield, Mass., in 1635, and of Richard Ely who settled in Lyme, Conn., in 1660. Mr. Ely on his mother's side—Helena Conover Ely, daughter of William I. Conover of Manalapan, N. J.—is a lineal descendant of Wolfhert Garretson Van Covenhoven who emigrated from Utrecht, Holland, about 1638. Mr. Ely was married in 1866 to Miss Hannah Applegate, daughter of James Applegate (formerly sheriff of Middlesex county, N. J.) and of Dena Applegate.

Mr. Ely graduated from Brown University with the degree of A. M. in 1861 and from the Albany Law School with the degree of LL.B. in 1864; studied law under ex-Governor Bedle of New Jersey, was admitted to the bar of New Jersey in June, 1865, and as a counselor in June, 1868. Since his admission to the bar Mr. Ely has been actively engaged in the practice of his profession at Freehold, N. J., and chiefly in equity cases, in the Orphans' Court and Court of Chancery.

James R. English, Elizabeth, born on September 27, 1840, in Liberty Corner, Somerset county, N. J., is a son of James T. and Mary (Jobs) English, and was graduated from Princeton College in 1861.

He read law in Morristown, N. J., with Theodore Little and was admitted to the bar of this State as attorney in June, 1884, and as counselor in June, 1867. He has been counsel for the executor of the Brown estate, counsel for the National State Bank of Elizabeth and the Metropolitan and Elizabethtown Gas Companies, for the New York Life Insurance Company, counsel in the State vs. George Dixon case, the Elizabethtown Gas Co. vs. the Metropolitan Gas Co., Seth B. Ryder et al. executors vs. the National State Bank, the Executors of Edward G. Brown, deceased, vs. John Kean and James Moore, and prominently identified with many other cases of equal importance.

Nicholas Conover Jobs English, Elizabeth, born in Liberty Corner, Somerset county, N. J., November 3, 1842, is the son of Rev. James Theodore English, a Presbyterian clergyman, and Mary E. (Jobs) English, and was graduated from Princeton College in the class of 1865. He read law with his brother, James R. English, and was admitted to the New Jersey bar as attorney in November, 1868, and as counselor in the same month in 1871. He has been a member of the Elizabeth city government and makes a specialty of real estate, corporation, and railroad law.

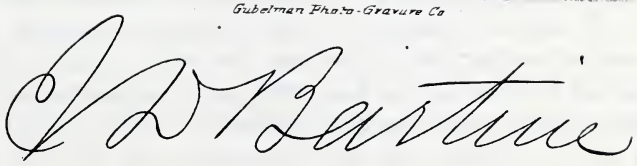
Henry A. Fluck was born in Bucks county, Pa., January 23, 1849, and is a son of Levi and Mary (Fenner) Fluck. He was educated in the public schools and North Wales Academy, read law with Hon. J. T. Bird and A. V. Van Fleet, late vice-chancellor, and was admitted to the New Jersey bar as attorney in June, 1875, and as counselor in November, 1878. Mr. Fluck is a self-made man and has enjoyed a successful professional career. Among the more noted law cases with which he has been identified as counsel were Flemington National Bank vs. Jones and the Rea Will case. He married, October 11, 1876, Miss Annie F., daughter of Avery Parker, of Flemington, N. J.

William H. Forman is a descendant of John Forman, who was born in Monmouth county about 1730. His parents were John and Ann (West) Forman, and he was born at Freehold, N. J., October 21, 1849. He was educated in the Freehold Institute and Princeton College, read law with W. H. Vredenburgh, and was graduated from Columbia Law School in 1875. He was admitted to the New Jersey bar in February of the same year Mr. Forman married Miss Anna Bennett, daughter of Hudson and Cornelia A. Bennett, and resides in Freehold.

John A. Frech, Somerville, born in Annandale, Hunterdon county,



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N. J., in 1856, attended the public schools of his native town and the classical institutes at Somerville and Lebanon, and remained at Rutgers College until the end of his sophomore year. In December, 1876, he commenced the study of law in Somerville with Alvah A. Clark, later studied in the offices of Clark & Schomp and Mr. Schomp, and was admitted to the bar of this State on the 8th of November, 1880. In February, 1884, he was admitted as counselor, proctor, and advocate in the U. S. District and Circuit Courts of New Jersey, and in 1891 received the appointment of special master in chancery. He has been counsel to the Board of Freeholders since 1886, and in the spring of 1895 was elected counsel of the town of Raritan. He defended the Van de Veer murder case and argued many other important trials, and in politics is an ardent Democrat.

Wilberforce Freeman is the son of the late Alexander H. and Lucinda (Crane) Freeman, and was born at Paterson, N. J., on August 8, 1842. He came at an early age with his parents to Orange, N. J., where he has ever since resided. He was graduated from the College of New Jersey in June, 1864, with the Latin salutatory, and from the Law School of Columbia College in May, 1868, with the degree of LL.B. He was admitted to practice in the courts of the State in June, 1868, as an attorney, and in June, 1871, as a counselor at law. Immediately upon his admission to the bar he formed a partnership with Hon. John L. Blake for the practice of his profession, which continued for upwards of twenty years, when Mr. Freeman, by reason of ill health, was compelled to relinquish active practice. During his legal career the firm of Blake & Freeman enjoyed a large and successful law business. For the past few years he has been and is still the president of the Half Dime Savings Bank of Orange.

Dumout Frelinghuysen, Somerville, born in Millstone, Somerset county, N. J., February 8, 1816, is a son of Frederic and Jane (Dumout) Frelinghuysen, and brother of Frederick F. Frelinghuysen, and was graduated from Rutgers College in 1835. He read law with Gov. P. D. Vroom and Thomas A. Hartwell, and was admitted to the bar of New Jersey at the September term, 1838, and as counselor at the same term in 1841. He was clerk of Somerset county from 1840 to 1845, and throughout life has been identified with the practice of law and religious work. As a lawyer, during a long and eventful career, he has enjoyed uniform success. Mr. Frelinghuysen married Miss Martina, daughter of Ferdinand and Maria (Elmendorf) Van de Veer.

Frederick Frelinghuysen, Newark, born September 30, 1848, is the son of Frederick T. and Matilda E. (Griswold) Frelinghuysen, and was graduated from Rutgers College with the class of 1868. He read law with his father and was admitted to the bar of this State as attorney at the June term, 1871, and as counselor at the same term in 1874. Mr. Frelinghuysen is commissioner and treasurer of the Sinking Fund of Newark, president of the Howard Savings Institution, a director in the Mutual Benefit Life Insurance and National Newark Banking Companies, and treasurer of Rutgers College, and was a member of the Constitutional Convention of New Jersey in 1894.

Thomas Ellis French, Camden, is a son of Charles E. and Elizabeth H. (Moore) French, and was born in Atsion, Burlington county, N. J., January 5, 1855. He is a lineal descendant of Thomas French, a signer of the West Jersey Concessions, the line being Thomas (1), Thomas (2), Thomas (3), Edward (4), Charles H. (5), and Charles E. (6), all of Burlington county, and Thomas E. (7), of Camden. The latter has in his possession a deed dated February 19, 1694, and signed by Thomas (1), who at that time was quite an old man, made to his son Thomas (2) for a farm in Burlington county. Charles H. French (5) was a justice of the peace, judge of the Common Pleas of Gloucester county, and member of the Legislature. Thomas E. French (7) was educated in the common schools, read law in Camden with Benjamin D. Shreve, and was admitted at Trenton as attorney in February term, 1876, and as counselor at the same term in 1879. Among the many important law cases with which he has been connected were those affecting the title to Long Beach, Ocean county, styled Jennings vs. Burnham, 27 Vroom, 289, and Baeder vs. Jennings, 40 Fed. R., 199. These involved the proprietors' records and the right of the present board to pass title to strangers.

Burrows C. Godfrey, Atlantic City, born in Cape May county, N. J., July 22, 1856, is a son of Leaming and Comfort L. Godfrey, and was educated in the schools of Cape May. He taught school for a time in the counties of Cape May and Cumberland, holding a first grade teacher's certificate, and read law in Atlantic City with Carlton Godfrey. He was admitted to the bar of this State as attorney at the June term, 1894.

Isaac Faerber Goldenhorn, Jersey City, born in the city of New York, on the 19th of October, 1872, is a son of Jacob and Marie (Faer-

ber) Goldenhorn, and has lived in Jersey City since 1874. He attended No. 20 and Jersey City High Schools, read law in the offices of Vredenburgh & Garretson and Earle Insley, was graduated with honors from the New York Law School in June, 1893, and received the degree of LL. B. in New York State in February, 1894. He was admitted to the New Jersey bar on the last named date and in June, 1895, was admitted in New York as attorney and counselor. He is one of the three Hebrew lawyers in Hudson county, is an ardent and active Republican, and made many effective speeches during the campaigns of 1893, 1894 and 1895. As attorney he was associated with Hon. John A. McGrath, county counsel in the Boulevard cases in Hudson county, and with Senator William D. Daly in several important criminal trials.

Elmer Ewing Green, Trenton, was born at Trenton, N. J., February 14, 1850, son of Caleb Smith Green and Eleanor Graeme Ewing, his wife. His father, Caleb S. Green, was a member of the New Jersey bar from 1843 to 1891, and was judge of the Court of Errors and Appeals from 1873 to 1885. His maternal grandfather, Charles Ewing, was a member of the New Jersey bar from 1802 to 1832, and served as chief justice of the Supreme Court from October, 1824, till his death in August, 1832.

Elmer E. Green was educated at Trenton Academy, and the College of New Jersey, and was graduated from the latter institution in June, 1870. His legal studies were pursued in his father's office in Trenton; and he was admitted as attorney at the June term of the Supreme Court in 1873, and as counselor at the June term of the same court in 1876.

The only political office he has held was that of member of the Common Council of Trenton, April, 1882, to April, 1885. He has been manager of the Trenton Saving Fund Society since 1891; and for the same period of time has been trustee of the Theological Seminary at Princeton (Presbyterian). His name appears in both series of the New Jersey Reports; but the most important case in which he was engaged, considering the large pecuniary interests involved, was that of Ashhurst vs. Potter, reported (on appeal) in 2 Stewart, 625. His literary work has been limited to fugitive pieces and occasional addresses, but one product of his pen, it is thought, having been printed—a point in New Jerey conveyancing in 5th N. J. Law Journal.

He married at Trenton, N. J., September 15, 1875, Sue Elizabeth Hunt, daughter of Commander William Edgar Hunt, U. S. N., and Anne de Belleville Clarke, his second wife, of Trenton.

JOHN W. GRIGGS, Paterson, born in Newton, Sussex county, N. J., July 10, 1849, descends from an English family that settled in Massachusetts in 1636, whence some of the name removed to this State, settling in Hunterdon county, where his grandfather and father (Daniel) were prominent and influential men. He was graduated from Lafayette College at Easton, Pa., in 1868, and immediately entered the law office of Hon. Robert Hamilton. He subsequently read law with Socrates Tuttle, of Paterson, and was licensed as an attorney at the November term of the Supreme Court in 1871 and three years later was admitted as counselor.

Soon after his admission he formed a copartnership with his preceptor under the style of Tuttle & Griggs, which continued for several years. In 1875 he was elected to the Assembly from the old Fourth district of Passaic county and was re-elected in 1876, serving in both sessions as a committee appointed to revise and harmonize the laws affected by the new Constitution. In 1878 he was appointed counsel of the Board of Chosen Freeholders and in 1879 received the appointment of city counsel of Paterson, which position he held four years. In 1882 he was elected State senator from Passaic county and served two terms, defeating James Inglis, jr., at both elections. In 1886 he officiated as president of the Senate and also president of the Court of Impeachment. In the fall of 1895 Mr. Griggs was elected governor of New Jersey by a handsome majority, being the first Republican chosen to that office since 1865.

He has been president of the Paterson Safe Deposit and Trust Company since its inception, is president of the Paterson National Bank, and has served as trustee of several large estates.

HENRY HAHN, Newark, born in Newark, N. J., September 5, 1872, is the eldest son of Rev. Joseph and Hermine Hahn, and a nephew of Dr. Adolf Huebsch, of New York city, one of the foremost Jewish rabbis of this country. His father was a rabbi of Jewish Oheb Schalom Congregation of Newark. Mr. Hahn was educated in the public and High schools of his native city, graduating from the latter institution in 1890, and read law during 1887–88 with Samuel Kalisch, esq., and Hon. Ludlow M. Carter, and for four years with Coult & Howell, of Newark, selling newspapers meantime (eight years) to help pay expenses. On February 23, 1894, he was admitted to the New Jersey bar as attorney and since then has successfully praticed his profession in Newark. He will make chancery and corporation

business his specialty. He has been a delegate to several Republican conventions and is a corporal and judge advocate of Co. E, 1st Regt. N. G. S. N. J.

Mr. Hahn has written and read numerous essays and papers before various literary societies of which he is a member, and for one year edited the Current Literature column of Town Talk.

THOMAS B. HALL, Camden, son of John E. and Catherine (Watts) Hall, was born in Jersey City on the 9th of October, 1869, and read law in Camden, N. J., in the office of Thomas B. Harned. He was admitted to the New Jersey bar at Trenton as attorney at the November term in 1890, and as counselor at the same place and term in 1893.

MORRIS ROBESON HAMILTON, Trenton, was born at Oxford Furnace, Sussex (now Warren) county, N. J., May 24, 1820, son of Samuel Randolph Hamilton and Eliza (Robeson) Hamilton. Samuel R. Hamilton was a son of John and Phoebe (Ross) Hamilton, of Princeton, N. J.; he studied law with Gov. Isaac H. Williamson, at Elizabeth, after his graduation at Nassau Hall in 1808, and was admitted to the bar in November, 1812; he became a counselor in 1823, and a sergeant in 1837; he was quartermaster-general of the State from 1830 to 1855, when he resigned on account of his health, and during this period he converted the old State Prison into the present State Arsenal; he was prosecutor of the pleas of Mercer county from 1843 to 1848, when he was elected mayor of Trenton. His death took place in 1856. Mrs. Eliza R. Hamilton was a daughter of Morris and Tracy (Paul) Robeson; she died in 1865.

Morris R. Hamilton was graduated from Princeton College in 1839, obtained his legal education with his father; he was admitted to the bar as an attorney at the September term of the Supreme Court in 1842, at Trenton, but never applied for admission as a counselor.

He was appointed master and examiner in chancery by Governor Pennington in 1843; removed from Gloucester county, N. J., to Philadelphia in 1844, and was admitted to the bar of that city, by Judge Stroud, in 1845. In 1849 he returned to New Jersey to take the editorship of the Trenton True American, and for thirty-five years thereafter was engaged in editorial work in the State of New Jersey, Pennsylvania and Missouri. In 1884 he was appointed State librarian of New Jersey, which position he now holds.

In Philadelphia, July 2, 1844, he was married by the Rev. Albert

Barnes, to Harriet Pennington Halsted, daughter of John and Mary (Pennington) Halsted, of Philadelphia (formerly of Newark, N. J.). She died in 1892, leaving seven children and five grandchildren.

His oldest son, Ellis, was captain of Company F, 15th N. J. Vols., in the late war, and was fatally wounded, May 8, 1864, at the battle of the Wilderness, and died at the Georgetown Hospital eleven days after; he was buried in the Mercer Cemetery, Trenton. His youngest son, Harry, after being trained in the actuary department of the Newark Mutual Benefit Insurance Company, became actuary of the Penn Mutual Life Company of Philadelphia, but being a Latin and Greek scholar, as well as a mathematician, he employed his leisure time in translations, among which were Virgil's Æneid (Putnam, 1889), Keating's New Pronouncing Dictionary of Medicine (W. B. Saunders, Phila.), and Saunders's Medical Lexicon, and eventually died of brain fever, caused by overwork. His other children survive and are all married.

Charles Hardenberg Winfield, Jersey City, born in the town of Deerpark, Orange county, N. Y., November 8, 1829, is the son of Henry and Deborah (Westbrook) Winfield, and was graduated from Rutgers College in 1852. When a young man he came to Jersey City, where he read law with Abraham O. Zabriskie, and was admitted to the bar of this State at Trenton as attorney in 1855 and as counselor in 1858. He was State senator in 1866, 1867, and 1868, and was appointed prosecutor of the pleas in Hudson county by Governor Ludlow in 1883, reappointed by Governor Green in 1888, and for the third time appointed by Governor Werts in 1893.

Mr. Winfield was prosecutor of the great ballot box frauds in Jersey City in 1889, and has been identified as counsel for defense with such important and interesting cases as Harrison vs. Vreeland, and Smith and Bennetts ads. The State, indicted for murder. He is the author of "History of Hudson Connty," "History of the Land Titles in Hudson County," "Surprise and Capture of Paulus Hook by Major Lee," "Monograph on the Founding of Jersey City," "Hoboken a Pleasure Resort for Old New York," and "Adjudged Words and Phrases," all of which have met with warm and favorable reception as works of literary and historical merit.

John R. Hardin, Newark, born in Green township, Sussex county, N. J., April 24, 1860, was graduated from Princeton College in 1880,



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J. D. Beers

and read law in Newark with McCarter & Keen, whose office he entered in June, 1881. He was admitted to the bar of New Jersey as attorney in June, 1884, and as counselor in June, 1887, and since the first named year has practiced his profession in Newark. He was attorney for the Board of Health from April, 1887, to February, 1890, and represented the Fifteenth ward of Newark in the Board of Aldermen from February, 1890, till January, 1892. He served in the Assembly from the Sixth district of Essex county in 1891 and 1892, and in that body was chairman of the Committee on Judiciary, Passed Bills and Federal Relations, and a member of the Committee on Ways and Means, and others.

Teunis A. Haring, Hackensack, son of Abram B. and Polly (Hopper) Haring, was born in Washington township, Bergen county, N. J., November 19, 1842. His father was sheriff of Bergen county from 1853 to 1856 and served as member of assembly in 1865 and 1866. Mr. Haring was educated in the common schools of his native town. He was appointed by Governor Abbett sheriff of Bergen county to fill the unexpired term of N. C. Demarest, and in 1889 was elected for the full term to that office. In 1892 he was chosen surrogate of Bergen county and still holds that important position.

Howard Wortley Hayes, Newark, born in Newark, N. J., May 9, 1858, is the son of David A. and Caroline (Davis) Hayes, and a lineal descendant of Thomas Hayes, who settled there in 1689. Educated at Newark Academy, Phillips Academy in Andover, Mass., and Yale College, he read law in his native city with George W. Hubbell and at Columbia Law School, and was admitted to the New Jersey bar as attorney in June, 1882, and as counselor in June, 1885. He was assistant district attorney for this State from October, 1888, to August, 1891, and judge of the first criminal court of Newark from March, 1891, to March, 1893.

Walter Foowood Hayhurst, Lambertville, is a son of Jeremiah and Mary E. (Foowood) Hayhurst, and a lineal descendant of Cuthbert Hayhurst, of Yorkshire, England, who came to this country in the good ship Welcome in 1682. He was born in Langhorne, Bucks county, Pa., September 21, 1856, received a common school education, which he has supplemented by some private instruction and much reading, and read law in the office of Charles A. Skillman, of Lambertville, N. J. He was admitted to the bar of this State as attorney in Febru-

ary, 1880, and as counselor in February, 1883, and has served as city attorney of Lambertville for five years, and is at present prosecutor of the pleas for Hunterdon county, N. J.

Mr. Hayhurst is the author of Genealogical Sketches of Hunterdon County and a valuable contributor to the Hunterdon Historical Society. He married Miss Florence M., daughter of C. Frank and Mary C. (Blackwell) Moore.

Will C. Headley, Newark, born in Brooklyn, N. Y., June 25, 1853, only son of John Stiles and Sarah A. (Courter) Headley. In 1857 he removed with his parents to the part of Union known as Headleytown, his father partly by purchase and partly by inheritance having obtained about eighty acres of land, a portion of the original Headley homestead farm at Vaux Hall, Union county, N. J. He was educated in the public schools of Unionville (Headleytown) and Springfield, Union county, and St. Stephen School, Millburn, N. J.; read law in the offices of Hon. John Whitehead and Samuel Morrow, jr., of Newark, and was admitted to the bar of this State at Trenton, as attorney at the November term, 1876, and as counselor at the same term in 1879. He has occupied his present office at 810 Broad street since April 1, 1878.

On June 5, 1878, he married at Green Bay, Wis., Rosetta, only daughter of Hon. D. Cooper Ayres, M. D., of that city, known as the Fighting Surgeon of the Iron Brigade, and has three children: El Roy, Frank and Harold Headley.

Mr. Headley was chairman of the Board of Trustees of the Hilton Public School of Essex county in 1882–1884, during which time the present school building was erected; became the first president of the Hilton Library Association in 1884, and served as president of the village of Irvington, where he now resides, in 1886–1889. He has held the office of treasurer and trustee of the M. E. church of Irvington, of which he is a member, since 1885. Politically he is and has always been a Democrat.

John W. Heck, Jersey City, born in Trenton, N. J., July 27, 1855, is a son of Martin and Catherine Heck, and received a public and private school education. He read law in Jersey City with Stephen B. Ransom and L. & A. Zabriskie, was admitted to the bar of this State at the November term, 1876, and served as member of assembly from the old Sixth district of Hudson county during the session of 1885. He was also clerk of the Index Commission under which local indexes of land

records for Hudson county were established under chapter 222, of the laws of 1888.

William C. Herring was born in Harrington township, Bergen county, N. J., January 5, 1837, son of Cornelius J. and Anna Doreathea (Riker) Herring. His education was obtained in the common schools. September 22, 1862, he enlisted in Co. I, 22d N. J. Vols., and participated in the battles of Chancellorsville, Fredericksburg, etc., and was honorably discharged with the rank of first orderly sergeant. On November 6, 1895, Mr. Herring was elected sheriff of Bergen county by a handsome majority.

Enoch A. Higbee, practicing attorney in Atlantic City, born at Leeds Point, N. J., April 22, 1863, is the son of Enoch and Bethiah (Clark) Higbee. He was educated in the public school of that place, and at the age of twenty-one years was elected assessor of Galloway township, and re-elected in 1886, 1889, 1890. In the fall of 1885 he was appointed postmaster at Leeds Point from among a number of applicants, which position he held four years. In February, 1892, he registered with Allen B. Endicott as a student at law, and was admitted to the bar as an attorney in February, 1895.

In February, 1894, he was appointed by President Cleveland collector of customs for the port of Somers Point, District of Great Egg Harbor, at which place he took up his residence, and at the next ensuing election was elected borough clerk, which position he resigned to accept the office of mayor, to which he was elected in March, 1896. Politically he was always a Democrat and an active worker in the party and for a long time chairman of the County Executive Committee. He has been elected to every position for which he aspired, always running in advance of his party's ticket. In his practice he has made municipal law a specialty and although young in practice, is attorney for various municipalities in his county. He has written several historical articles of Atlantic county which met with such general favor for their accuracy, clearness and style of composition that he is sometimes addressed as Higbee the Historian.

George S. Hilton, Paterson, born in Meredith, Belknap county, N. H., February 21, 1840, is a son of Daniel and Eliza Hilton, and received a common school education. He read law with S. W. Rollins and B. A. Hibbard in his native State and was admitted to the New Hampshire bar in September, 1866. In November, 1867, he was ad-

mitted to the bar of New Jersey as attorney and four years later as counselor. He served as corporation attorney of the city of Paterson in 1870 and 1871.

George Elwood Clymer, Newark, born on the 7th of March, 1868, in Newark, N. J., is a son of Edward Swain and Uretta (Van Kuren) Clymer, and was educated in the public and private schools of his native city. On February 16, 1886, he began the study of law in the office of Judge James D. Cleaver and was admitted to the bar of New Jersey at Trenton as attorney at the February term, 1890, and as counselor at the same term in 1893. He was managing clerk for Hayes & Lambert till April, 1891, and since then has been engaged in the practice of his profession in Newark, being employed for three years as extra counsel to the comptroller's department of the city of Newark under the Martin Act. He is counsel for the Board of Health, and secretary of the Park Avenue Protective Association of East Orange, N. J., where he resides, and is connected with the Frazer Lee will case in Union county and Bedford will case, now pending in the Essex County Orphan's Court.

Mr. Clymer is a descendant of George Clymer, who was born in Philadelphia in 1739. The latter was one of the signers of the Declaration of Independence, an active patriot during the Revolutionary war, and founder of the first bank in North America.

Rayton E. Horton, Paterson, born in Chaumont, Jefferson county, N. Y., March 7, 1869, is a son of George B. Horton, received a public school education in his native town, and finished his literary studies at Cazenovia Seminary in Madison county. He read law with Eugene Emley and was admitted to the New Jersey bar in June, 1892.

John Hopper, Paterson, born on the homestead farm of his father in the township of Lodi, Bergen county, N. J., March 2, 1814, is a son of John J. and Maria (Terhune) Hopper and a descendant of a family who were among the oldest settlers in New Jersey. His father, who died in 1833, was a successful and enterprising farmer during his lifetime; his farm, comprising about 300 acres, extended from Pollifly to Saddle River, and was occupied by his son, Jacob, until his death in 1889. John Hopper, the sixth of nine children, was brought up on the homestead farm, and received an early education at the old Washington Academy, Hackensack, and at Lafayette Academy of the same place. He was prepared for college under the Rev. John Croes, who conducted

a classical school in Paterson, and by Thomas McGahagan, at the old academy at Bergen Town, now Hudson City. He entered the sophomore class of Rutgers College, New Brunswick, N. J., in 1830, and three years later was graduated from that institution, dividing the second honor of his class with Robert H. Pruyn, of Albany, subsequently minister to Japan. Since 1851 he has been one of the trustees of Rutgers.

After his graduation he entered upon the study of law in the office of Gov. Peter D. Vroom, in Somerville, N. J., and remained there two years. He completed the study of law in the office of Elias B. D. Ogden, in Paterson, and on September 8, 1836, was licensed by the Supreme Court at Trenton as an attorney at law and solicitor in chancery. On February 27, 1840, he was licensed a counselor at law. He had already (November 10, 1836) formed a partnership with his preceptor at Paterson, and the firm of Ogden & Hopper did a successful business until the senior member was elected to the bench of the Supreme Court. Mr. Hopper continued the business and in 1869 took his son, Robert L., into partnership.

He has been called repeatedly to fill public positions and has discharged the duties of office with uniform fidelity and success. He was town counsel of Paterson from 1843 to 1847; surrogate of Passaic county for two consecutive terms, 1845–55; counsel to the Board of Chosen Freeholders from 1855 to 1864; and prosecutor of the pleas of Passaic county from 1863 to 1868 and again from 1871 to 1874. He served as State senator from Passaic county from 1868 to 1871, and again from 1874 to 1877. In March, 1877, Governor Bedle appointed him judge of the District Court of Paterson and he continued in that office until January 8, 1887, when he resigned and was appointed by Governor Abbett to the office of president judge of the Court of Common Pleas, Orphans' Court and Quarter Sessions of Passaic county for the unexpired term of Absalom B. Woodruff, deceased. He was reappointed to this office by Governor Green on March 15, 1887, and again appointed on April 1, 1887, for the full term of five years. On April 1, 1892, he was reappointed by Governor Abbett. He was appointed one of the advisory masters in chancery in 1879 by Chancellor Runyon, and has held a number of other positions incidental to his profession.

Judge Hopper was married on June 16, 1840, to Mary A., daughter of the late Robert Imlay, a former merchant of Philadelphia. Fifty

years afterward he celebrated his golden wedding in the same house in which he had been married, and which had been his residence for half a century; the occasion was one which brought together a large number of the most prominent men of the State.

Six of his children are living, viz.: John H., a silk manufacturer; Robert Imlay, a law partner of his father; Mary A., widow of Frank W. Potter, formerly U. S. consul to Marseilles; James Burling, of Parkersburg, W. Va.; Miss Caroline Imlay; and Margaret Imlay, wife of John T. Boyd, now residing in Brookline, near Boston, Mass.

As might have been expected from his Dutch ancestry, Judge Hopper was one of the earliest members of the Holland Society of New York, having been chosen in 1886, and since 1889 has been one of the vice presidents of that organization. Before he was entitled to a vote, and ever since, he has been an active member of the Democratic party, serving on the State Committee many years, and has repeatedly represented New Jersey in the national conventions of his party. He was one of the original stockholders of the Paterson and Ramapo Railroad Company, owners of the line between Paterson and Ramapo, which is leased and operated by N. Y., L. E. & W. R. R. Co., and has been secretary and treasurer of the first named company since its incorporation in 1842.

During the entire time that Judge Hopper was engaged in the practice of his profession he was recognized as a lawyer of ability, not only well read, but possessed of those mental faculties that conduce to the attainment of success. He was engaged in a large number of the most important cases tried in the State courts, and brought to the discharge of his professional duties a certain urbanity of manner, combined with an incisiveness of thought and a clearness of exposition, that almost uniformly led to decisions in favor of his clients. He has already been recognized as one of the most foremost lawyers of the State. As a legislator he earned laurels which might well excite the envy of his fellows, and would undoubtedly have done so towards a person less popular than Senator Hopper. His elevation to the bench was hailed by all not only as a recognition of the eminent services he had rendered his party, but as a just tribute to the man who had done so much towards maintaining the dignity of his profession by an ever straightforward course. As a judge of the county courts he has gained the respect of all and the gratitude especially of the younger members of the bar, whom he is ever ready by means of kind words and advice to direct into the proper paths so familiar to himself.



SAMUEL W. BELDON.

William Howard, Elizabeth, born in Brooklyn, N. J., August 14, 1846, is a son of Horatio N. and Cornelia (Finley) Howard, and received a good public school education. In 1852 he removed with his parents to Somerset county, N. J., near Plainfield. In the fall of 1869 he removed to Rahway, N. J., where he engaged in the grocery business, and since that time, in addition to his public duties, has continued the business, being among the leading grocers in the city, and having during that time held many offices of public trust in addition to those herein mentioned. He was a member of the Chosen Board of Freeholders of Union county, N. J., for ten years, has served as a member of the Common Council of Rahway, and in 1894 was elected county clerk of Union county by a handsome majority, being the first Republican elected to that important office since the formation of Union county. In 1864 Mr. Howard enlisted in Co. I, 39th Regt. N. J. Vol. Inf., participated in the battles of Hatcher's Run and Petersburg, and was present at the final surrender of Lee.

In 1872 Mr. Howard married Miss Merrick, youngest daughter of David P. Merrick, of Rahway, N. J. He has three sons living, the eldest being twenty-one years of age and now engaged with his father in the above business.

James Edward Howell, Newark, born in Wantage township, Sussex county, N. J., is a son of William C. and Julia A. Howell, was graduated from the Law Department of the University of Michigan at Ann Arbor in 1870, and read law at that institution and also in the office of Coult & Blarcom, of Newton. He was admitted to the bar of this State as attorney in February, 1872, and as counselor in June, 1880, and is a member of the firm of Coult & Howell.

Abraham T. Huff, Somerville, born at Neshanic in Somerset county, N. J., June 23, 1836, is the only son of Tunis and Maria (Quick) Huff, and a lineal descendant, in the sixth generation, of Pieter Hof, who settled in the county of Somerset prior to 1705 and was a large owner of real estate in this country as early as 1707. His father was a successful bridge builder. Mr. Huff was graduated from Rutgers College in 1855. In 1867 he was elected to the Legislature, and in 1887 and again in 1892, he was chosen surrogate of Somerset county. His wife, Phoebe H , was a daughter of Rev. Gabriel Ludlow, D.D., and Susan Rapelyea.

Alfred Hugg, Camden, son of William and Keziah K. Hugg, was

born in Camden county, N. J., August 26, 1828, and received his education in the private schools of the city of Camden and Philadelphia. He read law in the office of William N. Jeffers in the city of Camden and was admitted to the practice of the law by the Supreme Court of New Jersey as an attorney at law at the October term in the year 1849, and as counselor in June, 1853.

He has held the offices of city clerk, city treasurer and city solicitor of the city of Camden, and was appointed president judge of the Court of Common Pleas of the county of Camden by Gov. Robert S. Green and held the office for the term of five years. In his early manhood he was appointed to the office of prosecutor of the pleas of the county of Atlantic, N. J., by Gov. Joel Parker, and again by Gov. Theodore F. Randolph and held the same for a period of four years. He has also held the office of clerk of the Board of Freeholders of the county of Camden. In the years 1892, 1893 and part of 1894 he served in the capacity of counsel for the Board of Freeholders of the county of Camden. In every office in which he served he was an able, faithful and efficient officer and filled the same with ability and distinction.

Barton Bellangee Hutchinson, Trenton, was born in Allentown, Monmouth county, N. J., June 10, 1860, son of Charles R. and Mary Coward Hutchinson. He was educated in the public schools and studied law in the office of Holt & Brother at Trenton. He was admitted to the bar as an attorney at Trenton, at the June term, 1881, and as a counselor at the June term, 1884. He was elected to the Assembly from Mercer county in 1891 and 1892. He has been president of the Board of Trade of Trenton. He married at New Egypt, N. J., October 1, 1885, Sarah M. Hulme, daughter of John L. and Anna Meirs Hulme.

Symmes B. Hutchinson, Trenton, was born in Trenton (Hamilton township), September 2, 1851, son of George A. Hutchinson and Ida V. Hutchinson. His great-grandfather, George Anderson, was vice-president of the State Council in 1800. He was graduated from Princeton College, and studied law with Hon. Edward T. Green at Trenton. His admission to the bar as attorney occurred in February, 1879, and as counselor in February, 1882. He has been township attorney, solicitor of Wilburborough, and county counsel of Mercer county; in 1886–87 he was a member of the New Jersey House of Assembly. He was one of the managers of the impeachment trial of Patrick H. Laverty.